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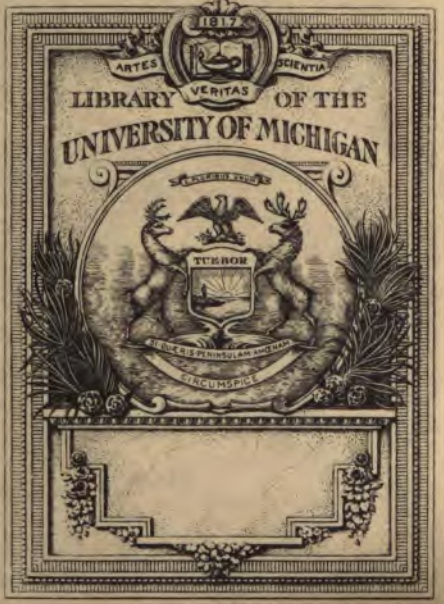

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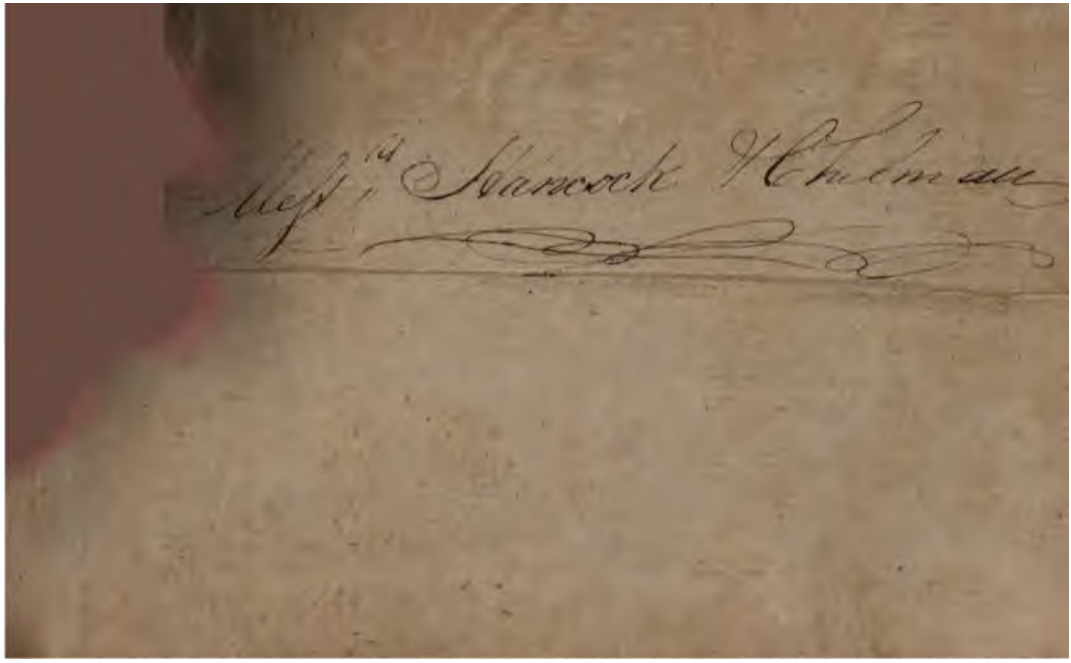

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TO THE RIGHT WORSHIPFUL

RICHARD HOARE, Eſq.

ALDERMAN of the CITY of *LONDON.*

SIR,

I TAKE the Liberty of introducing the following Treatiſe to the Public under the Sanction of your Name, as it was begun at your Requeſt, and finiſhed by your Aſſiſtance; in order that the Experience you gained at the ſeveral Elections in which you have been concerned might be of general SERVICE to your Fellow-Citizens upon the like Occaſions; and ſince this was your immediate and only View, I hope the Obſervations I have made, and the Principles by which they are explained, will anſwer the End of ſo generous a Deſign: Your Merit in every other Circumſtance

is ſo well known, as to render it unneceſſary for me to offer any particular Teſtimony, either of your Integrity and Zeal to ſerve the Community as a Magiſtrate, or of your Good Senſe, Good-Nature, and every amiable Quality for which you are ſo univerſally beloved in private Life: But I muſt not however omit acknowledging the peculiar Happineſs I have enjoyed in the Continuance of a long and intimate Acquaintance, by the Means of which I have been a Witneſs of ſuch frequent Proofs of your real Worth in every Inſtance, that I muſt always eſteem it an Honour to be accounted, what I now ſincerely profeſs myſelf,

Your obliged Friend,

And moſt obedient Servant,

WILLIAM MILDMAY.

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THE

THE

METHOD and RULE

OF

PROCEEDING

UPON ALL

ELECTIONS, &c. within the CITY of LONDON.

THERE is no *Privilege* the Citizens of *London* have more Reaſon to boaſt of, than that of *Chuſing* their own Magiſtrates and Officers conſtituted to ſupport their Civil Government; the *Method* and *Time* in which ſuch Elections muſt be made, and the *Right* in general of Voting in ſuch a Choice, are all preſcribed by the By-Laws and Cuſtoms of the City, and regulated by the Act of 11th of *George* I. Chapter 18. So that nothing more ſeems to be required of a Perſon preſiding at any Conteſt of this Kind, than that he ſhould, according to good

Conſcience and the beſt of his Underſtanding, determine the Votes of his Fellow-Citizens, in the Manner directed by their own Laws, under the Regulations, and agreeable to the Conſtruction of that Statute.

BUT, although it is thus *in general* deſcribed to whom the Right of Voting ſhall belong, yet the particular Diſtinctions upon the *previous Duties* neceſſary to complete that Right are no Ways ſettled, or at leaſt do not appear to be univerſally agreed upon: This poſſibly may be accounted for by every preſiding Officer's claiming a Liberty of putting his own Conſtruction upon each ſeparate Qualification, either as he is inclinable to adhere to the ſtrict Letter of the Law, or follow the more liberal Principles of Equity; the different Opinions that from hence have been formed upon Points which ſo frequently come under Conſideration, and the Conteſts which People have been tempted to raiſe by Reaſon of thoſe Points being ſo unſettled, are Circumſtances greatly lamented by all who regard the Eaſe and Quiet of their Fellow-Citizens: Upon this Conſideration, I was apprized, that it would not be an unacceptable Offer to propoſe ſome uniform *Method of Proceeding*, and *Rule of Judging*, upon the ſeveral Elections within the City of *London*. To execute this in a Manner ſatisfactory to all Parties, which, if poſſible to be done, is my only Aim,

I have

I have been obliged to look back into the ancient Uſage and Cuſtom of the City with Reſpect to the Choice of all the public Officers; I have duly examined the Statute before-mentioned of the late King, which was chiefly intended to regulate theſe Elections; and have directed myſelf by the Opinions of the moſt eminent Counſel upon the Conſtruction of it's ſeveral Clauſes, and of All other Acts of Parliament any Ways relating thereto; I have, moreover, been aſſiſted throughout the Work by the Gentleman to whom it is dedicated, and, together with him, conſulted great Numbers of worthy Citizens of known *Abilities* and *Integrity*, who, perfectly underſtanding their own Conſtitution, and having been themſelves perſonally concerned in Diſputes of this Nature, have afforded me ſuch Intelligence from their own Experience, as ought, above any other, to be the moſt relied upon: The Reſult of all which I here make bold to publiſh, with Hopes that it may be of ſome Uſe to the Magiſtrates, Freemen, Liverymen, and Houſholders of this great City; having formed my Judgment in every Inſtance free from all *party* Views, and without Prejudice in Favour of any Kind of Opinions, but ſuch as may tend to the moſt *impartial*, *juſt*, and *equitable* Determination; and ſuch ſurely ought all Determinations to be upon Diſputes amongſt Fellow-Citizens concerning that

valuable Right of Voting in the *Choice* of their *own* Officers.

It would be too tedious and unneceſſary in this Place to enter into an hiſtorical Detail of all the Alterations, which have been made in the Qualifications of the Freemen to Vote at the different Elections within the City! Let it ſuffice to obſerve, that theſe Rights have been varied by their own implied *Conſent* under the Authority of the *By-Laws* paſſed in *Common-Council*, which were intended and ought to conclude all the Members of the Community; for although the Royal Charters confirming the Privileges of Elections were granted generally unto *all the Barons* of the City of *London*, as the *Citizens* were anciently ſtiled, yet, when the Metropolis grew ſo numerous that it became inconvenient, and almoſt impracticable to carry on theſe Elections, and the other Buſineſs of the Corporation, — by the *general Aſſembly* of the *Freemen*, They, by their own *Petition* and *Aſſent*, as appears by an Ordinance paſſed ſo long ago, as in the ſeventh Year of King *Richard* II [a], devolved the Power to a ſelect

[a] The Preamble to this Ordinance recites, that it was paſſed in the Preſence of the *Lord Mayor*, *Aldermen*, and an *immenſe Community* of the honeſt Men of the City, *&c.* "who by the underwritten *Petitions* deliberating, "*&c.* That, foraſmuch as by Complaint made how di-"vers Times in the Councils uſed within the Hall and "Chambers

a ſelect Number, nominated to be their *Common-Council*, choſen at firſt, and ſtill continued to be choſen, by the *Freemen* Inhabitants, as Repreſentatives of all the Citizens, with Power to make By-Laws, which By-Laws muſt of Courſe bind all the Citizens, whom the *Common-Council* ſo repreſent, even in Inſtances where, for the Sake of avoiding popular Diſorder and Confuſion, they have ordained, that ſuch and ſuch particular Officers ſhall be choſen by a ſelected Number, and not by the Community in general [b].

ACCORDINGLY we may find it agreed by an Act of *Common-Council* paſſed in the fifteenth Year

" Chambers of the *Guildhalde*, great Rumor and Peril " had been perceived, as well by *great Aſſemblies*, as " inſufficient Perſons deputed, and ſeeing that often- " times the Judgments of the ſaid Councils were more " by Clamour than Reaſon, *&c.* Thereupon it was or- " dained by the *Mayor*, *Aldermen*, and *good Commons*, " That every Year the *Aldermen* be charged to aſſemble " their *Wards* to chuſe four of the moſt ſufficient Per- " ſons that be in their *Ward* to be of the *Common-Coun-* " *cil*, &c."

[b] THIS was ſolemnly determined by the Opinion and Reſolutions of all the Judges met at *Serjeants-Inn* in *Michaelmas* Term, 40th and 41ſt of Queen *Elizabeth*. See *Coke*'s Reports, l. 4. p. 77. intitled, the *Caſe* of the *Corporations*.

of *Edward* IV, That none but the Maſters, Wardens, and honeſt Men of the *ſeveral Myſteries* of the City, ſhall go to the *Guild-Hall* to the Election of *Lord Mayor*, *Sheriffs*, and other *Officers* of the City; and ſeveral other Ordinances of a later Date here referred to [c] have limited the Right of Voting for the principal Officers at the reſpective *Wardmotes* to ſuch *Freemen* only as are *Houſholders* within the Ward: All which are now confirmed by the Act of Parliament of the 11th of *George* I. Chap. 18. By which it is enacted, "that none "ſhall Poll for *Mayor*, *Sheriffs*, and other *Officers* "to be choſen at the *Common-Hall*, but thoſe "who ſhall ſwear, or affirm, that they are *Free-*"*men* and *Liverymen*;" and "*That* the Right of "Voting for *Aldermen* and *Common-Council Men* in "the ſeveral Wards of the City ſhall belong and "appertain only to ſuch *Freemen* as are *Houſholders*, "paying *Scot* and bearing *Lot* as therein after is "mentioned and required." Thus we perceive the Right of Election ſtill remains in the *Freemen* of the City, but under ſuch Reſtrictions and additional Qualifications as have been thought requiſite for the Avoiding of all tumultuous Proceedings: Theſe Qualifications therefore, as we now

[c] SEE the Acts of *Common-Council*. *October* 26, 1692. Sir *Thomas Stampe*, Mayor. — *September* 20, 1711. Sir *Gilbert Heathcote*, Mayor. — *December* 6, 1712. Sir *Richard Hoare*, Mayor. — *April* 15, 1714. Sir *Samuel Stanier*, Mayor.

find them, we ſhould endeavour to ſettle and eſtabliſh in ſuch a Manner as may prevent all further and future Diſturbances, for it is through the Want of a proper Explanation, that the Laws of Election within the City, like the unhappy Fate of many other Laws, are perverted to the miſchievous Purpoſes, which they were intended to deſtroy, and frequent Controverſies are created by the very Regulations which were deſigned to put an End to all Diſputes.

As to the Contentions which, upon theſe Occaſions, will neceſſarily ariſe between *Parties* of different Intereſts, they muſt be left to cool and ſubſide, as the particular Reaſons which created them may in Time be forgot, or other Circumſtances happen, which may re-unite thoſe who, at ſuch a Seaſon, appear in Oppoſition to one another; and, ſince the *Candidates* muſt be ſuppoſed to recommend themſelves only by their known Characters and public Sentiments, it is to be wiſhed no Attempts may ever be made to ſeduce by *other* Motives ſuch of the Voters as are likely firſt to engage themſelves through Principle and natural Inclination; I hope, in the laſt Place, it is unneceſſary for me to add a general Caution to every *preſiding Officer*, to keep himſelf clear from all Party and Perſonal Prejudice, to remain, if poſſible, unacquainted with the Merits of either *Side, until they* are proved in open Court, and no

not to ſeem concerned in the Event any further than having a Regard to his own Character by making a *juſt* and *impartial* Deciſion.

It is well known, that the *Sheriffs* of *London* are the *preſiding* Judges at the *Common-Halls*, to which the Liverymen are ſummoned for the Choice of Members of Parliament, and of Mayors, Sheriffs, Chamberlains, Bridge-Maſters, and all other Offices there choſen for the City; and that, at a *Wardmote* held for the Election of an Alderman, the *Lord Mayor*, or his *Locum Tenens*, is the *Preſiding Officer*; and that every *Alderman*, or his Deputy, *preſides* by Virtue of the Lord Mayor's Precept in his reſpective Ward, upon the Choice of Common-Council-Men, and other Ward or Precinct Officers: And, ſince nothing can contribute better to the right Settling of theſe Elections than a calm and regular Proceeding therein, it will be proper firſt to point out in what Manner They ought to be *propoſed*. — How *carried on*. — And within what Time *finiſhed*. — And then I ſhall venture to lay down the *Rules* and *Principles* collected from the beſt Authorities, by which he who preſides may form his *Judgment* in making his final Declaration.

Those who have a Right to Vote, being ſummoned and met at the Time and Place of Elec*tion, and* Proclamation being made in the uſual

Form;

Form; the *Preſiding* Officer is to proceed to take the Names of the Candidates, to put the Queſtion diſtinctly upon each, and to make his Declaration of the Choice, as it ſhall appear. — Firſt, upon *Holding up of Hands*.—In the next Place, upon the *Poll*. — And laſtly, upon the *Scrutiny* of the Votes objected to. — Theſe are the three uſual Methods of Trial, if required, before an Election can be determined within the City of *London*; which however muſt be ſuppoſed to be but *One* Election made at firſt upon the *Holding up of Hands*, the Poll and Scrutiny only ſuſpending the Determination, until it appears who at laſt have the Majority of Legal Votes: And it muſt be obſerved, that the Method and Time in which an *Election*, *Poll*, and *Scrutiny* muſt be carried on and finiſhed at a *Common-Hall*, and at a *Wardmote*, as alſo the legal Qualifications of Voting at each, are differently circumſcribed, and muſt accordingly be diſtinctly conſidered.

I SHALL therefore beg Leave firſt to conſider of the Elections made at the *Common-Hall*, as this is the largeſt Aſſembly of the City compoſed of all the Liverymen ſummoned to chuſe their principal Officers.

FREQUENT Diſſenſions have indeed formerly happened in adjuſting the Rights of theſe popular *Elections; wherein* there have been Inſtances of the

Freemen in general ſetting up their ancient Claim to Vote in the Choice of their City Officers in Oppoſition to the ſole Privilege, which had, as before-mentioned, been veſted in the *Liverymen*: And the *Liverymen* in their Turn have oppoſed the *Common-Council* in the Power, which that yet more ſelected Number aſſumed to excuſe any Perſon from ſerving an Office to which he had been elected by the *Common-Hall*: And at other Times the *Commonalty* have entered into higher Controverſies with their *Chief Magiſtrates* in Reſpect of the Right formerly claimed by the Lord Mayor to name one of the *Sheriffs* of the City for each Year without any Choice or Concurrence by the *Livery*: Theſe Jealouſies and Diſputes we happily find have been by Degrees ſettled, and the ſeparate Powers of each Body confirmed under the Sanction of ſeveral Acts of *Common-Council*, by which all the Community, as I obſerved before, muſt be concluded; and it is now eſtabliſhed by Cuſtom, as well as Law, That the *Common-Hall* ſhall conſiſt only of *Liverymen*, occaſionally to be ſummoned for the *Nomination* of two Aldermen who have ſerved the Office of *Sheriff* to be the *Lord Mayor*, one of which is afterwards to be *choſen* by the *Court of* Aldermen [d]. And that the *Liverymen* themſelves

[d] THE ancient Right of the Court of Aldermen to chuſe the Lord Mayor out of two Perſons, which were to

themſelves ſhall *elect both* the Sheriffs, either out of the Court of *Aldermen* or the Body of the *Citizens* as They ſhall think moſt proper, [e] reſerving to the *Lord Mayor* the Privilege of *nominating* a particular Number of Commoners, who, unleſs they have before been excuſed by the Court of Aldermen, muſt be put up to be either elected or refuſed by the Common-Hall [f]: And laſtly, it is the *Liverymen* only who have the Right of

to be nominated only by the Common-Hall, appears by an Ordinance paſſed the 31ſt of *July*, the 7th of *Richard* II. 1384 whereby it is enacted, That thoſe who ſhall be ſummoned to the Election of a Mayor, ſhould make their Election of two, *&c.* And, when they ſhall have agreed, they and their Common Serjeant ſhall preſent their Names unto the Mayor and Aldermen, *as anciently was done*. Lib. *H.* fol. 178. And in the ſame Year at a general Council held on *Friday* next before the Purification, *&c.* it was ordained, that from henceforth none ſhould be *Mayor* of the City before He ſhould ſerve the Office of *Sheriff*. Lib. *H.* fol. 197.

[e] SEE the Act of Common-Council, *July* 20, 1631, *Ducey*, Mayor; and the Amendment made to it by another Act of *June* 25, 1694, *Aſhurſt*, Mayor.

[f] As formerly the Mayor named one Sheriff, and the Liverymen choſe the other, the preſent Method here deſcribed was by Way of Compromiſe agreed to by the Act of Common-Council, *October* 22, 1703. Sir *Samuel Daſhwood*, Mayor.

chuſing the Members to ſit in Parliament, the Chamberlain, Bridge-Maſters, Auditors of Chamberlain's and Bridge-Maſters Accounts, and other Officers of the City [g].

I HAVE already taken Notice that the *Sheriffs* are to *Preſide* at all theſe Elections made by the Liverymen ſummoned to the *Common-Hall*, which Aſſemblies are to be held for the Choice of a Lord Mayor on [h] *Michaelmas-Day*, or the [i] Day before, if it happens on a *Sunday*; and for the Election of [k] Sheriffs, [l] Chamberlain, Bridge-Maſters, *&c.* on *Midſummer-Day*, or the [m] Morrow after, when that falls on a *Sunday*; but ſhould

[g] So ſettled with Reſpect to the Choice of Chamberlain, Bridge-Maſters, *&c.* by the Act of Common-Council, *June* 21, 7th of *William* III. Sir *Thomas Lane*, Mayor.

[h] ACT of Common-Council, 28th of *Henry* VIII, 1537. —*Alleyne*, Mayor.

[i] ACT of Common-Council, 16th of *Sept.* 1698. — *Pilkington*, Mayor.

[k] ACT of Common-Council, 20th of *July*, 7th of *Car.* I. 1631.—*Ducey*, Mayor.

[l] ACT of Common-Council, 1ſt of *Auguſt*, 28th of *Eliz.* 1586.—*Dixe*, Mayor.

[m] ACT of Common-Council, 15th of *June*, 1694.— *Aſhurſt*, Mayor.

a Lord

a Lord Mayor happen to die within the *Year*, his Place muſt be [n] *immediately* ſupplied, becauſe the very Name of the Corporation, *under the Title* of Mayor and Commonalty, and Citizens of the City of *London*, muſt be ſupported by the Exiſtence of ſuch a Chief Head or Magiſtrate.

THUS alſo the Election of a new *Sheriff* upon the like Accident of the Death of either of them, muſt be made as ſoon after as poſſible [o], for although They, as Officers of the City, appear in ſeparate Capacities at *Guild-Hall*, and the Duty and Attendance of one may excuſe the Duty and

[n] *N. B. Humphrey Parſons*, Eſq. died in his ſecond Mayoralty, on *Saturday* the 21ſt of *March*, 1740, and a Common-Hall was ſummoned by an *Order of the Court of Aldermen*, to meet on the *Monday* next following, for the Election of a new Lord Mayor, when *Daniel Lambert*, Eſq. was choſen.—Sir *Robert Godſchall* died in his Mayoralty on *Saturday* the 26th of *June*, 1742, and a Common-Hall was by the like Authority ſummoned, and met on the *Monday* following, and choſe *George Heathcote*, Eſq. in his Room.

[o] IT is provided by the Act of Common-Council, 7th of *Car.* I. *Ducey*, Mayor, That, if upon the Death of any Sheriff during his Shreivalty, or upon any other Occaſion whatever, there be juſt Cauſe to make a new Election, the ſame ſhall be at ſuch Time and Day as by the Lord Mayor and Court of Aldermen ſhall be appointed.

Attendance

Attendance of the other, yet in *Middleſex* they are eſteemed in the Eye of the Law to be jointly together only as one *Sheriff*, and therefore the Office in that County is not complete without their *joint* Authority; ſo likewiſe every Vacancy in all the other Offices of the City ought to be ſupplied within ſuch Time as may prevent any Inconvenience by the Delay of public Buſineſs; and to this Purpoſe it is provided by an Act of *Common-Council*, paſſed the 27th of *November*, 1729, *Brocas*, Mayor, That a Common-Hall ſhall be ſummoned within *fourteen* Days next after the Demiſe of any *Chamberlain*, for the Electing of another fit and able Perſon to ſupply ſuch Vacancy.

Sudden Emergencies of this Kind may poſſibly ſometimes occaſion ſuch Conteſts and Diſorders as ſhall for a while ſuſpend the new Election, which however cannot now any Ways affect the *Charter* or *general Franchiſe* of the City, ſince this Corporation under the Sanction of the Statute of the 2d of *William* and *Mary*, Chap. viii. Sect. 3. is ever to remain without any Seizure or Fore-Judger of the ſaid *Franchiſe*, for any Pretence of *Forfeiture* or *Miſdemeanor* hereafter to be committed.

Upon all theſe Vacancies, happen when they *will*, the *Liverymen* in general, who live in the City

City or the Suburbs and Out-parts, or whereſoever diffuſed and diſperſed throughout the Kingdom, have a Right to aſſemble and give their Votes for a new Choice at the *Guild-Hall* of *London*, purſuant to the *Summons* publicly notified for that Purpoſe.

THIS *Summons* has always been iſſued by a Precept from the *Lord Mayor*, who, as he *convened* the Court, ſo he likewiſe formerly claimed a Right to *adjourn* or *diſſolve* it whenever he pleaſed, although the *Sheriffs* were allowed to *preſide* over the *intermediate* Proceedings; from whence many Diſputes and Diſturbances were created, either by an unneceſſary Adjournment by the *Lord Mayor*, or the Continuance of the Aſſembly by the *Sheriffs*, after ſuch an Adjournment [p].

WHEREUPON an Act of *Common-Council* was paſſed on the 21ſt of *June*, in the ſeventh Year of King *William* III, Sir *Thomas Lane*, Mayor, for ſettling the Methods of *Calling*, *Adjourning*, and *Diſſolving* the Common-Halls upon the ſeveral Elections of the City Officers therein mentioned;

[p] SEE the Arguments upon this Point at the Trial of the Information againſt *Thomas Pilkington* and *Samuel Shute*, Eſqrs. Sheriffs of the City, and others, for a Riot in 1683, 35th of Car. II. State Trials, *Vol. III. fol.* 541.

which

which Act, taking Notice in the Preamble of the Diſputes concerning ſuch Rights and Powers to Call and Adjourn, *&c.* declares, "That, for the "preventing the like Miſchiefs for the Future, "the Right of aſſembling Common-Halls for the "Election of *Lord Mayors*, *Sheriffs*, and other "public *Officers for the City*;" (out of which their *Members* of Parliament are to be excepted, as will be mentioned hereafter) "and the Power to diſ-"ſolve the ſame after ſuch Elections are made "and finiſhed, and not otherwiſe, is and ought "to be in the *Lord Mayor* of the City for the "Time being."

Upon which we muſt remark, that in the firſt Inſtance there is no Power in the *Lord Mayor*, but that of *Aſſembling* and then *Diſſolving* the Court after ſuch Elections are made and finiſhed.

The next Clauſe of the Act therefore has ordained, "That whenever any Poll or Scrutiny "ſhall be demanded, or other Difficulty ariſe, "which may require an *Adjournment*, that then "the Right of granting and taking the Poll "and Scrutiny, and *adjourning* the Hall from "Time to Time, till the ſame be concluded, ſhall "be in the *Sheriffs*."

But ſince from hence it may happen, as the next *Proviſo takes* Notice, That the two *Sheriffs*, thus

invested

inveſted with a joint Authority, may have Diſputes and Differences touching any Matter relating to the Adjournments, Polls, or Scrutinies, which might impede the Compleating of them within the Times limited, Then and in ſuch Caſe the Act directs, "That all ſuch Differences ſhall be determined by the *Lord Mayor*, and whatever Orders he makes therein, ſhall be obſerved by the *Sheriffs*, or, in Default of their Compliance, he may proceed himſelf in granting and taking the Poll and Scrutiny, and in adjourning the Hall until all ſhall be finally concluded."

AGREEABLE to this Eſtabliſhment, it is now the Cuſtom, at all theſe Common-Halls, for the *Lord Mayor* to appear upon the *Huſtings* attended by the Aldermen together with the two *Sheriffs*, and Proclamation being made by the Common Cryer for all Perſons to draw near and attend their Summons, the Recorder and Common Serjeant thereupon uſually addreſs themſelves to the Livery, and open the Buſineſs and Intent of the Meeting, after which His Lordſhip retires with the Aldermen, and leaves the Management of the *intermediate* Proceedings to the *Sheriffs*; and accordingly, upon the Candidates being propoſed, it is *They* who *declare* upon the Queſtion; and, if a *Poll* be demanded, it is *They* who appoint the Clerks to take it, and upon the Reſult, after a Scrutiny made which *is alſo ſubmitted* to *their* Judgment, it is They that

that make the Declaration of the Majority unto the *Lord Mayor*, who returning back certifies the Election to the *Common-Hall* by the Recorder, and then the Court is diſſolved by *his* Order.

But there is one Exception, as before-mentioned, to the contrary of this, with reſpect to the Election of the *Repreſentatives* of the City to ſit in *Parliament*, who ſeem not to be included in the general Deſcription of the above Statute, as public *City Officers*; but are choſen at a Common-Hall met by Virtue of a Notice from the *Sheriffs* in Purſuance of the Writ directed to them, in which Caſe the *Sheriffs* only are concerned in the Return, and have an excluſive Power given and ſpecified by other Statutes[2] to convene the Voters; to preſide at the Poll; to adjourn from Time to Time; and to make the final Declaration: They therefore are ſolely the Maſters of all theſe Proceedings, and the *Lord Mayor* has no Authority of interpoſing.

I thought it proper to premiſe all this, becauſe Magiſtrates and preſiding Officers cannot be guilty of a more fatal Error, than either diſputing the ſettled Juriſdiction of *Others*, or aſſuming greater Powers to *Themſelves* than what are admitted

2. See 7th and 8th of *William* III. Chap. 25. and 1ſt of *George I.* Chap. 18.

by

by the Laws of the Land, or the Conſtitution of their own Corporation.

Upon proceeding to the Election of a *Lord Mayor*, all the Aldermen under the Chair who have ſerved the Office of Sheriffs are propoſed in *Rotation*, two of which are to be returned by the Common-Hall to the Court of Aldermen; and it has been the uſual Cuſtom of the Liverymen to nominate the *two Senior* Aldermen under the Chair, and the Court of Aldermen upon the like Example have uſually elected the *Senior* of thoſe two into the Office: But that each of them have a Right to deviate from this uſual Method of Rotation is what no one can diſpute; the only Queſtion is, How far the *Exerciſe* of that Right may be juſtified, when it is not founded on ſuch Motives as have a real Tendency to the *greater Dignity* and *better Government* of the Community in general.

In like Manner, upon the Election of *Sheriffs*, all the *Aldermen* who have not ſerved that Office, are firſt put up in their Order of Seniority, but, by whatever Laws theſe might have formerly claimed the Priority of being ſo elected [r], yet it is

[r] There is a Memorandum in the Journal Book for the Year 1556, 3d and 4th of *Philip* and Mary, of an Act of Common-Council, ſaid to have been paſſed on the 1ſt

is certain the Liverymen at preſent are at Liberty to chuſe whom they think proper, either out of that Court, or of thoſe nominated by the Lord Mayor that have not been excuſed; or any others that ſhall be propoſed at the Time of Election: This indeed is the true and proper Freedom of Election, which the Livery reſerve to themſelves upon this as well as that other Occaſion of Electing Members to ſit in Parliament; although the Compliment is then alſo paid to the Court of *Aldermen* to put up each of their Names before any other Candidates are offered.—Such of the City Officers as are annually choſen are ſeldom oppoſed

1ſt of *Auguſt*, ſetting forth that it was thereby agreed, "That no *Alderman* ſhould ſerve the Office of *Sheriff* "without his own free Will and Conſent, before his "*Ancients* and *Seniors*, &c." but the Authority of this is to be queſtioned, as there is no Record to be found, in the Town-Clerk's Office, of it's ever having been Engroſſed: However, if ſuch a Law had been made, it muſt be underſtood now as repealed, by the general Clauſe of the ſubſequent Act of 20th of *July*, 7th of *Car.* I. *Ducey*, Mayor; and as there is a Clauſe in this laſt mentioned Act, "That the Lord Mayor ſhould not chuſe any *Commoner* "into the Office of Sheriff, ſo long as there ſhould then "be an *Alderman* eligible to the ſaid Office," the ſame is expreſſly Repealed by the Act of Common-Council, 25th of *June* 1694, *Aſhburſt*, Mayor; as alſo by the Act of 1703, Sir *Samuel Daſhwood*, Mayor, by which the Power of the Lord Mayor, to chuſe any Perſon Sheriff is taken away from him, and veſted ſolely in the Liverymen

aft

after the firſt Election, but are continued from Year to Year, excepting only the Auditors of the Chamberlain's and Bridge Maſters' Accounts, until a Vacancy happens by Death or Reſignation.

THE Queſtions upon all theſe Elections are propoſed by the Voice of the Common Cryer, and a *Declaration* is thereupon made in the firſt Inſtance by the Order of the Sheriffs, according to their Judgment upon the Appearance of Hands held up for each Candidate.

BUT, if this *Declaration* upon the *View of Hands* be not ſatisfactory to the Parties againſt whom it is made, they have a Right to demand a POLL, which is the next and more certain Method of determining the Choice; to this Purpoſe the fourth Section of 11th of *George* I. Chap. 18. hath directed, "that upon all Elections of Citizens to ſerve in "Parliament, and of Mayors, Sheriffs, and all "and every other Officer to be choſen for the "City by the Liverymen thereof, in Caſe a *Poll* "be demanded by any of the *Candidates*, or any "*two* or more of the *Electors*, the preſiding Offi-"cers ſhall begin the ſame on the *Day* it is de-"manded, or the Day following at fartheſt, unleſs "that happen on a *Sunday*, and then the next Day "after;" and ſince the Preamble of this Section declares the ſame to be enacted, to the Intent that *the Poll at all* Elections within the City may be *expeditiously* taken, ſo it muſt be the Duty of every preſiding

preſiding Officer to be ready immediately to proceed thereon; and therefore the Poſtponing and Adjourning of it to the next Day after ought only to be allowed upon the joint Requeſt of the contending Parties on both Sides.

THE *Common-Hall* being accordingly continued or adjourned to the Time agreed upon, the Sheriffs, attended by their Secondaries, uſually appoint ſuch Clerks as are in equal Numbers recommended on the Behalf of each of the Candidates to take the Poll, whom they Swear truly and indifferently to take the ſame, in the Manner as directed by the Act; that is,[a] That they ſhall ſet down the Name of each Voter, and his Place of Reſidence or Abode, and for whom he ſhall Poll; and to Poll no Perſon who ſhall not be Sworn, or, being a Quaker, ſhall not affirm the Purport of the Oath therein preſcribed; and accordingly every Perſon before he be admitted to Poll muſt Swear or Affirm, "That he is a Freeman of *London*, and "a Liveryman of the Company of and "has been ſo for the Space of twelve Kalendar "Months, and that the Place of his Abode is at "in and that he hath not Polled "at that Election."

AND to this muſt be added, if required by any of the Candidates or two of the Electors, the Oaths

[a] Sect. I.

of

of Allegiance, Supremacy, and Abjuration, which Oaths the preſiding Officers or their Clerks are impowered to adminiſter, or upon their Refuſal or Neglect to forfeit the Sum of ſixty Pounds with Coſts of Suit [t].

It being thus directed by this Statute, "That "no Perſon ſhall *Poll* at ſuch Elections, but "thoſe who ſhall ſwear or affirm, That they are "both Freemen and Liverymen," it amounts to the ſame as if there had been an expreſs *enacting* Clauſe that the *Right* of Voting at ſuch Elections ſhould be limited to thoſe only who are *Freemen* and *Liverymen*; ſince it is immediately afterwards declared, That the *Vote* and *Poll* of every Perſon who ſhall refuſe to take the ſaid Oath, or affirm the Effect thereof, ſhall be *null* and *void*, and as ſuch rejected and diſallowed.

In this Manner the *Poll* is to be proceeded upon from Day to Day, until it be finiſhed, and which upon all Elections at a *Common-Hall* muſt be finiſhed within *ſeven* Days, excluſive of *Sundays*, after its Commencement [u].

But here again, with reſpect to the Elections of the *Repreſentatives* of the City, the Sheriffs ought to be appriſed of what is further required and directed by ſeveral other Acts of Parliament relating

[t] *Sect. II.* [u] Sect. IV.

to

to the Duty of all Returning Officers; particularly that, [x] ſo ſoon as the Writ for ſuch Election is delivered to them, or either of them, the *Date* of the Day on which it was received ſhould be endorſed on the Back, and which at the very next Court of *Huſtings* after it's Receipt they muſt open and cauſe to be read, and immediately after take and ſubſcribe the Oath directed by *Sect.* 3. of the 2d of *George* II. Chap. 24. By which they are to ſwear, "That they have not received any Sums "of Money, Office, Place, or Employment for "making any Return, *&c.* And that they will re-"turn ſuch Perſons as ſhall to the beſt of their Judg-"ments appear to have the Majority of legal Votes," which Oath the *Lord Mayor*, or, in Caſe he be a *Candidate*, the *Senior Alderman* uſually adminiſters; and then it is they, the *Sheriffs*, and not the *Lord-Mayor*, who give public Notice of the *Time* and *Place* of lection, to be proceeded upon within *Eight* Days after; at which appointed Time they are obliged, if requeſted by either of the Candidates, or two of the Electors, to adminiſter the Oath of *Qualification* to any of the Candidates according to the 9th of Queen *Anne*, Chap. 5. Sect. 5. which extends to *London*, as well as to all other Corporate Towns in *England* not there excepted, which *Oath*, if taken, muſt be certified into Chancery or the King's Bench within three Months after, or, if refuſed, the Election and Return of ſuch Candi-

[x] *See 7th* and 8th *William* III. Chap. 25.

date

date will be void. And every *Voter* alſo at ſuch Election, if it be demanded as above, muſt before he Polls take the Oath directed by the firſt Section of the above-mentioned Statute of the 2d of *George* II. purporting, "That he hath not by "himſelf or any other Perſon taken any Sum of "Money, Office, Place, or Employment, in order "to give his Vote." I believe I need not enlarge any farther upon this particular Branch of the *Sheriffs* Duty, which, as it is only to be occaſionally attended to, they, who may happen to preſide on ſuch an Occaſion, may refer to the ſeveral Acts of Parliament, from whence I have tranſcribed the foregoing Directions, as alſo to what may hereafter be enacted by the ſame Authority, as the beſt and ſureſt Guides for their Behaviour.

For the more due and orderly *Carrying on* of every Election at the Common-Halls, the Statute of the 11th of *George* I. has further directed, that, upon the *Adjournment* of the Poll on each Day, the preſiding Officers ſhall *ſeal up* the *Poll Books* with the Seals, and in the Preſence of ſuch reſpective Candidates, or Perſons deputed by them, as ſhall deſire the ſame; which Books are not to be opened again, but in *their* Preſence, and at the Time and Place of Meeting in Purſuance of the Adjournment.

UPON *finiſhing* the Poll, the Books muſt again be *ſealed up*, and within *two* Days after publicly opened at the Place of Election, and the Numbers for each Candidate duly and truly caſt up; which Numbers the preſiding Officers, within *two* Days after ſuch caſting up, muſt publicly declare to the Electors at the Place of Election [x].

BUT it muſt be obſerved, that, though the Statute preſcribes theſe ſeveral Days as the longeſt Time allowed for taking the *Poll*, yet the *Candidates*, if they think fit, may, with the *Conſent* of the *preſiding* Officers, agree to cloſe it in leſs Time; as that the Books ſhall be ſhut up at the End of the third or fourth Day, or upon ſuch an Hour of the Day; in which Caſe it will be neceſſary for them, who preſide, to take great Precaution in their own Juſtification, and procure an Agreement in Writing ſigned by the Candidates, or two of their Voters on each Side, at what Hour the Poll ſhall begin and end on each Day, and when the ſame ſhall be finally concluded; after which, if either of them ſhould decline and deſire the Poll might be cloſed even ſooner than at firſt agreed upon, yet it ought not to be complied with, unleſs *all* the Parties on both Sides conſent in the ſame formal Manner to countermand and give up their former Agreement: And ſo likewiſe, though the preſiding Officers may claim the Indulgence of the *two* Days allowed *them afterwards* to make their Declaration, yet

[x] SECT. 4. See Appendix, No. II.

the

they may, and usually do, make it *immediately*, upon casting up the Numbers, at the Time agreed upon to shut up the Books; unless they be desired to suspend the same by any of the Candidates, who, upon the View of a *Scrutiny* to be demanded, may want an Opportunity to prepare and nominate a sufficient Number of their Friends to be their Scrutineers; and this seems to be the Reason of granting so much Time to the presiding Officers, even after casting up, before they shall be obliged to make their Declaration of the Numbers.

The *Poll*, being thus closed, doth not yet we find determine the Election, but the Parties may from hence proceed to the ultimate Trial, by a SCRUTINY upon the Legality of the several Votes; and here the presiding Officers are not only to observe the *Method* and *Time* in which such Scrutiny must be carried on, but are at last to exercise a *judicial* Authority in allowing or disallowing the *Right* of the several Pollers against whom Objections are to be made.

A Scrutiny, if lawfully demanded, that is, by any of the Candidates, or two of the Electors, must be granted and proceeded upon, and the Candidates on each Side must nominate to the presiding Officer any Number of Persons qualified *to Vote, not* exceeding *Six*, to be their Scrutineers,

neers, whom they are then immediately to nominate, upon the Suppoſition of their being prepared ſo to do, by the Allowance of the Time for deferring the Declaration upon the Poll as above mentioned for that Purpoſe [y].

THIS Demand of a Scrutiny is generally made, or at leaſt muſt be granted as if made, upon the *mutual* Requeſt of both Sides, that he who has gained upon the Poll may have equal Liberty to object againſt the others, as well as defend his own Voters; and, ſince both Parties muſt be ſuppoſed to enter jointly upon the Scrutiny, ſo conſequently they ought jointly to bear all the Expence of the Proceeding thereon; accordingly, upon their joint Charge and Requeſt, the preſiding Officers are directed to deliver unto each of them, within *Six* Days after their Demand of a Scrutiny, true *Copies* ſigned by themſelves of the *Poll* taken. Theſe ought to be preſented unto all the Candidates at one and the *ſame* Time, that they may have equal Opportunity to find out whom to object againſt, and what Objections they may make or prove. And, ſince all and every of the Scrutinies at theſe Elections muſt begin within *Ten* Days after ſuch Delivery of the Copies of the Poll, the *Common-Hall* muſt be *adjourned* to *that* 10th Day, from the Time on which the

[y] SECT. 4. See Appendix, No. III.

Scrutiny

Scrutiny is demanded: And the Examination of the Merits muſt then be proceeded upon from Day to Day, (*Sundays* excepted) and be finiſhed within *Fifteen* Days after the Commencement of the ſame, and, within *Four* Days after, the Sheriffs muſt publicly declare at the Place of ſuch Election, which of the Candidates is or are duly elected, and the Number of *legal* Votes for each, appearing to them upon ſuch *Scrutiny*.

From hence it appears, that, in computing the ſeveral Periods of Time in which each Act is to be done, the Proceedings upon theſe Elections by the *Liverymen* may take up, including all the *Sundays*, near *Fifty* Days from the firſt Demand of a Poll to the laſt final Declaration.

In this Calculation there is one Circumſtance I muſt beg Leave to take Notice of, which is the Repugnancy there ſeems to be between the *fixed* Time appointed for the Admiſſion of a Lord Mayor, and the yet *longer* Time beyond that, which is allowed for his being elected in the Office; for the Citizens of *London*, in Purſuance of their Charters [z], "are to chuſe unto themſelves "a Mayor every Year, at the *End* of which he is "to be amoved, and another ſubſtituted in his "Room, or he may be retained, *&c.*" And to

[z] Fourth Charter of King *John*, and ſecond Charter of *Henry III.*

this Purpoſe the Act of Common-Council, which has been before referred to, of the 28th of *Henry* VIII. *Alleyne*, Mayor, directs, that the Liverymen ſhould thenceforth be ſummoned to the Common-Hall, on *Michaelmas-Day*, to return two fit and able Perſons to the Court of Aldermen, one of which is there to be choſen, who, on the Feaſt of St. *Simon* and *Jude*, being the 28th of *October* following, is to enter upon his Office, juſt as the Year of the former Magiſtrate is ended; but, if, upon the Election of two to be returned by the Liverymen on *Michaelmas-Day*, a *Poll* and *Scrutiny* ſhould be demanded, It may not be determined, according to the Time allowed by the Act of Parliament, until ſome Time *after* the *Expiration* of the Day on which the Office is to become *Vacant*; for from *Michaelmas* to St. *Simon* and *Jude* is but *Twenty-nine* Days, whereas the *Scrutiny* may be ſpun out to near *Fifty* Days, ſo as to reach to the Middle of *November* before it is determined which two are returned: During which Interval there will not be, ſtrictly ſpeaking, any *Lord Mayor* preſiding over the City. Be this as it will, the *Sheriffs* muſt purſue the Directions of the Statute, and as the *Scrutiny* only ſuſpends the Right of thoſe nominated on the Poll, until it clearly appears, which two are returned by the *Livery*, ſo the Perſon choſen upon that Return by the *Court of Aldermen* muſt be ſuppoſed, as if *returned and choſen* on the *firſt* Day, previous to the Expi-

ration

ration of the Office of the former Magiſtrate; conſequently this doth not come under any of the Proviſo's of the 11th of *George* I. Chap. 4. as if no Election were made, and there were a Neceſſity to reaſſemble or apply to the Court of *King's-Bench* for a *Mandamus* to proceed to another Choice: On the contrary, an Election being at *firſt* made, and the *Deciſion* of it only *ſuſpended*, the Neceſſity of the Caſe muſt admit, that, during ſuch Interval, the *Father* of the City ſhould preſide, or rather, that the *former chief Magiſtrate* ſhould hold over, not as is his *own Right*, but in *Right of him* who ſhall appear at laſt to have been duly elected.

The Sheriffs are not only to be thus careful to *carry on* all their Proceedings within the due *Time*, but muſt attend to a yet much greater Concern in the Exerciſe of their *judicial* Authority; for the *Candidates* and *Scrutineers*, being now met again in the *Common-Hall* in Purſuance of the *Adjournment*, are to ſuggeſt their Objections *Vivâ Voce*, as the Names of the Voters are called over in the Court, and which are uſually digeſted in an alphabetical Order for that Purpoſe, and called over alternately on the Side of each Candidate; and the *Sheriffs* are to take Notice, That it is expreſsly ordered by the *Act of Common-Council* of *December* 6, 1712, Sir *Richard Hoare*, Mayor, "That, at all ſuch Elections of *Mayors*, *Sheriffs*, "*Chamberlains*, and other Officers of the City;"

" They, the Sheriffs," (to whom this Act declares the Right of Granting and Taking the Poll and Scrutiny at ſuch Elections doth properly belong) " ſhall, upon full Hearing the Objections " againſt any Perſon voting, and the Anſwer " made thereto, or before they make their Re- " turn, openly and publicly declare in the Place " where the Scrutiny ſhall be made, whether the " Perſon ſo objected againſt hath a Right, and is " well intitled according to the Laws and Cuſ- " toms of the City to vote at ſuch Election, or " not, that ſo the Candidates conteſting may " know which of the Electors objected againſt " are allowed, and which of them are not allow- " ed in the ſaid Election."

HERE I hope to be pardoned for preſuming to adviſe all thoſe who may ſit as *preſiding* Judges on ſuch Diſputes, at *any Election* whatever within the City of *London*, to behave with Caution, Attention, and Deliberation, to hear both Sides with equal Patience, and not demean the Character they appear in by any unbecoming Expreſſions, or a Warmth of Zeal ariſing from any preconceived Opinion, or from the Prejudice of Party, perſonal Friendſhip, or any other private Motive; but to determine every Point according to Equity and Conſcience, and the Rules hereafter ſubmitted upon the Merits and Circumſtances of the Caſe,

as

as they ſhall be proved in open Court: On the other Hand, it muſt be recommended to the *Candidates* and *Scrutineers* to behave with Submiſſion and due Deference, to ſtate their Objections in as conciſe a Manner as poſſible, conſidering how ſhort a Time is allowed for the Determination, and to ſubmit each Point as it ſhall turn out upon the Evidence; for they ſhould not be ſuffered by any Means to hang and dwell upon their Arguments for the Purpoſe only of protracting the Scrutiny, and giving leſs Opportunity for the other Side to propoſe and make out their Objections.

In order therefore to point out the Objections, and ſettle the right Opinions, which ought to be formed upon all Conteſts of this Nature, I beg leave firſt to offer the *Reaſon* and *Principles* on which the Right of Voting is to be conſidered, and then to add, by Way of further Explanation, the ſeveral particular *Caſes* on which any Doubts may ariſe, with the *Determination* they ought to receive; ſuppoſing that, whilſt an Objection is ſtated on each Circumſtance, the Voter is qualified in every other Reſpect.

In proceeding upon this Method, we muſt take Notice, that the firſt Qualification to be diſputed on theſe Scrutinies is, whether the Voter, according to the Oath adminiſtered, is a *Freeman* and a *Liveryman*; and was *ſo twelve* Kalendar Months

next before the Election; which annexed Condition, as to Time, muſt be conſtrued to refer back only to the laſt Antecedent of having been a *Liveryman* for ſo long a while; becauſe the fourteenth Section, which is the Enacting Clauſe of the Statute with Regard to this Qualification, takes no Notice of the *Freedoms*, but declares only, "That no Perſon "ſhall have a Title to Vote, who has not been "upon the *Livery* for *Twelve Months* before;" and therefore if he, who has been upon the *Livery* of any Company for a Year, takes up his *Freedom* of the City at any Time before the *Commencement* of the Election by *holding up of Hands*, it is ſufficient; but then the Time of ſuch Voters being upon the Livery muſt be twelve Months complete from the *Date* of his being *entered* in the Company's Books to the *Time* of the *Election* made as above, for, if the twelve Months are not ended on or before the *firſt* Declaration, it will be a proper Objection againſt his Right of afterwards Voting on the Poll; for the Calculation of the Year muſt have Reference only to the Day in which the firſt Election and Declaration was made on the *View of Hands*; and therefore, although his Oath may be true, that at the Time of his *Polling* he had *then* been a Liveryman for twelve Months complete, yet his Vote muſt be diſallowed upon ſtating the Caſe in the following Manner:

A——

A——was admitted upon his Livery the 25th of *June*, and the Election for Sheriffs was on the 24th of the ſame Month, being *Midſummer-Day* in the Year following, but, a Poll being demanded, he did not Vote until the 26th, at which Time his Year was complete.

Bac. Abr. Cond. (A) 1-4-197 1-463

BAD[a].

As the Evidence of one having been upon the Livery for ſo long a Space of Time depends upon a Matter of Record, the Proof may at once appear by Recourſe had to the Date of the Entry in the Books of the Company to which he belongs, and this Proof is the more eaſily made out, by Reaſon that, by the ſixth Clauſe of the ſame Act of Parliament of the 11th of *George* I, "The Lord Mayor, upon the Requeſt "of the Candidates, or their Agents, is obliged, "where a Scrutiny is demanded on ſuch Elec-"tions, to iſſue out his Precepts, requiring the "Maſters and Wardens of the reſpective Live-"ry Companies to cauſe their Clerks forthwith "to return two Liſts of all their Liverymen, "which the Clerks are bound to do, in three "Days Time, upon Oath, and the ſame are "then to be delivered to the Candidates or their "Agents on each Side."

[a] So determined upon the Election for Chamberlain, *Boſworth* againſt *Selwin*.

HERE then is a neceſſary *Caution* to be given to thoſe who at any Time may *tranſfer* themſelves over from one Company to another: That they be careful, after having obtained from the Court of Aldermen their Licenſe to be tranſlated, to *compleat* that Tranſlation, by applying to the Chamberlain's Office to have it endorſed on the Copy, and afterwards entered and *recorded* in his Books; for, if they ſhould vote in their laſt Capacity, to which they were ordered to be tranſlated, before the proper Record is made thereof, it will annul their Right, as though no Vote at all had been given; for Example, If *J. S.* formerly a *Cooper*, having gained his Licenſe to be transferred over to the *Vintners* Company, ſhould vote in *this* latter Capacity, without being completed, by having his Name entered as above; the Objection will be, That there is no ſuch Perſon as *J. S. Vintner*; and, upon ſuch Objection being made, it will be too late to ſhew, That his *Name* appears as a *Liveryman* in the Books of the *former* Company; becauſe every Man's Right muſt abide by the Teſt of that Qualification upon which he tendered his Vote, and was admitted: This therefore will be a right Objection when ſtated as followeth:

A ——, although he has been a Liveryman for more than twelve Months in one Company, yet Polled in the Name of another, to which *by Conſent* of the Court of Aldermen and the

two

two Companies he was to have been tranſla-ted; but it doth not appear by the proper Record, that ſuch Tranſlation was carried into Execution.

BAD[b].

In the next Place, it is further Enacted by the fourteenth Section of the ſaid Statute of *George* I. "That neither ſhall any Perſons have a Title to "vote, who ſhall not have *paid* their Livery *Fines*, "or who, having paid the ſame, ſhall *receive All* "or *Part* of them back again, or ſhall have had "*any Allowance* in reſpect thereof[c]."

This Objection ſeems founded on good Reaſon and Policy, eſpecially as the *Fines* to be admitted on the Livery of moſt of the Companies are kept up at a high Price, eſtimated by the particular Advantages that are to be obtained, and amongſt the reſt this general *Privilege* of being intitled to a *Vote* at the *Common-Hall* of the City; to which it is proper none ſhould be intitled, but ſuch as are of ſufficient Abilities to pay the Purchaſe, and conſequently more likely to exerciſe it in a free and independent Manner. But to admit a Perſon upon the Livery *Gratis*, and by the Way

[b] So determined upon the Election for Chamberlain, *Boſworth* againſt *Selwin*.

[c] See Appendix, No. IV.

as it were of Charity, is making the Privilege too mean and cheap; beſides, if this were allowed, it is poſſible, that ſome might petition to be admitted with no other View than to ſerve the Purpoſe of an Election: To prevent therefore any Abuſe, or other Means of evading the Intent of this Clauſe of the Statute, it is cautiouſly provided "That the *receiving* the *Fine* or *Part* of it back "again, or even any *Allowance* in reſpect thereof," is in every Inſtance, in which it can be proved, equally and alike the ſame Diſqualification, as the Non-payment thereof.

It is uſual however for ſome Companies to accept of a promiſſary *Note* for the Fine, upon which, as I have been informed, they ſeldom allow more than *ſix* Months Credit; if therefore it can be proved, that the Voter, who muſt have been *Twelve* Months upon the Livery, has refuſed or been unable to ſatisfy his Note upon a *Demand* made at the Time, or ſince it became due, he ought to be ſet aſide for ſuch Refuſal and Omiſſion, equally as if he had been *firſt* admitted without *Payment*, or any *Security* given; conſequently then, if on the other Hand a Satisfaction has been given on ſuch a *Demand* any Time before the Election, it muſt be allowed as equal to a *Payment* upon the *firſt* Admiſſion; but, if the Company, inſtead of making ſuch a Demand, have *cancelled*

the

the Note, and *forgiven* the Debt, it ought ſurely to be conſtrued to create the ſame Diſqualification, as the *receiving back the Fine*, or an *Allowance* in reſpect thereof: The chief Doubt therefore that may be raiſed upon this Circumſtance is, where the Note ſtill remains uncancelled and unſatisfied, and at the ſame Time there is no Proof of a *Demand* made for the Payment, nor any Preſumption of a Refuſal, whenever it ſhall be demanded; in which Caſe I ſhould apprehend we ought to yield all reaſonable Indulgence in Favour of the Right, and allow ſuch a Security given, as equivalent to the Payment itſelf, ſince it muſt be ſuppoſed, when no Evidence is given to the contrary, that the Party has been all along, and ſtill is willing and able to make good his Engagement, by which at leaſt he now appears as a Perſon *bound* to pay his Admiſſion Fine, and for which the Company can by Law inforce and obtain a Satisfaction: All theſe Circumſtances, therefore, upon a fair and reaſonable Conſtruction, may be determined in the following Manner:

A——was admitted on the Livery, but on Account of his low Circumſtances was excuſed the uſual Payment of a Fine, or Part thereof.

B A D.

B——paid his Fine upon Admiſſion, but, afterwards *coming* to Decay, received the Whole

on

or Part of it back again; or ſome Allowance has been made him on Account thereof.

B A D.

C——did not make an actual Payment of the Fine due upon his firſt Admiſſion to the Livery, but gave his promiſſary Note for the ſame, payable at a future Day, which he has accordingly paid and ſatisfied before the Day of Election.

G O O D.

D——gave his Note, but, the Payment thereof being demanded at the Time it became due, he refuſed, and has not yet ſatisfied.

B A D.

E——gave his Note, which the Company afterwards, in Conſideration of his Circumſtances, forgave and cancelled.

B A D.

F——gave a Note, which is now unſatisfied, no Demand having hitherto been made, but he remains ſtill liable and willing to make good the Payment.

G O O D.

I MUST beg the Liberty now to take Notice of one Objection, ſo far only as to ſhew that the preſiding Officers ought not to take any Cognizance of it, ſince it is ſuch as muſt of courſe be determined by a legal Proceſs; for, as ſeveral of the Companies and Myſteries within the City of London are limited by their *Grants* and *Charters* to admit only a particular Number upon their Livery, ſo it has been urged by Way of a general Objection, that thoſe who have been admitted upon the Livery of any Company, after the *Numbers* ſo preſcribed by their Charters were *complete*, ought all to be ſet aſide; now if we were to conſider this, even upon its Merits, How hard would it be for any One, who, after being admited upon a valuable Conſideration, ſhould be thus perſonally affected by a Circumſtance to which he muſt be ſuppoſed to be an intire Stranger! How impoſſible almoſt muſt it be, when the limited Number may be exceeded by the Admiſſion of many at one and the ſame Time, to decide and diſtinguiſh which of them are to be diſqualified as ſupernumerary! but a preſiding Officer upon a Scrutiny is happily diſcharged from entering into theſe difficult Inquiries, for he has no Right to determine whether any Companies have exceeded their Numbers, nor any Authority to compel them to produce their Charters in order to convict *themſelves*; but, on the Contrary, is

ſolely

ſolely bound by the Evidence which is directed to be given by the 6th Section of the Statute made for regulating theſe Elections, which I have recited before [d], and whereby it is required that the Clerks of the ſeveral Companies ſhall return true Liſts of their Liverymen upon Oath; it muſt therefore be taken for granted, that the Liſts ſo returned upon Oath do contain a true Account of all the Liverymen of their reſpective Companies, and upon this Preſumption the preſiding Officers muſt proceed to inquire, not how many ought to have been returned, but whether thoſe, who are returned, are properly qualified by the Performance of the ſubſequent Duties required in order to intitle them to Vote at ſuch Election.

In going on therefore to examine theſe farther Qualifications, I muſt in this Place juſt obſerve, That a Liveryman, in order to be intitled to a Vote at a *Wardmote* in the Choice of an Alderman, *&c.* muſt be a *Freeman* and *Houſholder* within the Ward, paying Scot and bearing Lot, as I ſhall have Occaſion by and by to explain more particularly; but here it is not requiſite, that even the *Liverymen* who reſide in London ſhould be *Houſeholders* and *liable* to the Rates that are to be levied therein; nor is it neceſſary that Thoſe, who are Houſholders and liable to be rated, ſhould there-

[d] See Page 35.

fore

fore have been *charged* or have *paid* to All or Some, and particularly to the *Watch* and *Lamp*: For, although a Deficiency in any of these Points, as must hereafter be distinguished, will prove fatal Objections at a *Wardmote* upon the Election of *Aldermen* and *Common-Council-Men*, yet no such Objections are to be made at a *Common-Hall*, nor can the Right and Vote of a *Liveryman* be any ways impeached thereby.

But, notwithstanding a *Liveryman*, even though he is a Housholder within the City, may be exempt from the above Objections, yet all such, I mean those who are *Housholders within the City*, are subject to another, which may be urged against them in particular; and that is the Objection which by the 14th Section of the same Statute of the 11th of *George* I. may be made at *all* Elections within the City, against those "Who have within two "Years next before requested to be, and have "been accordingly discharged from paying to "the Rates and Taxes which the Citizens of "London, *inhabiting therein*, are liable unto;" but, though this be an Objection to be made at *all* Elections, yet, by the Strictness of the Words, it must be confined and limited to be urged at a *Common-Hall*, against such of the Liverymen only as are Housholders *within the City*, and so liable to the Rates and Assessments raised within the *Jurisdiction thereof*, as being Citizens of London

and

to be again taken Notice of, upon my explaining the Methods of ſettling the ſeveral WARD-MOTE Elections for *Aldermen* and *Common-Council-Men.*

THIS is to be my next Attempt, and, upon entering on the Subject, I find I ſhall be obliged to ſtate many more particular Queſtions, and to inforce many longer Arguments towards bringing the Conteſts upon *theſe Elections* to a right and peaceable Concluſion, as the Oppoſitions therein happen to be more frequent, as well as more difficult to be decided.

THE Election of all *Ward* Officers muſt be at a Court of *Wardmote*, held in the Nature of a *Court-Leet*, by a Precept of the Lord Mayor as chief Lord and Steward, ſummoning or directing the Alderman to ſummon the Inhabitants to attend at the Place and Time appointed for that Purpoſe.

ANY Citizen may be choſen an *Alderman* of a Ward, although he be not an *Inhabitant* thereof; for the ſeveral Acts of Common-Council [e] with reſpect to theſe Magiſtrates, require only that they ſhould be able and ſufficient Citizens and *Freemen*; if the Candidate therefore be *free* of the City and

[e] SEE Page 5, where all theſe Acts of Common-Council are referred to.

of

of ſufficient Abilities, theſe are all the Qualifications that are directly preſcribed to intitle him to the Right of being choſen into that high Office, in any Ward where there is a Vacancy, notwithſtanding he may live in another Part, or even out of the Walls of the City.

But it is expreſſly directed, that every *Common-Council-Man* ſhall be an *Inhabitant* of the Ward for which he ſerves, agreeable to the ancient Ordinance of the 7th of *Richard* II. before-mentioned, by which a ſelected Common-Council was firſt eſtabliſhed, and whereby it was agreed, "That "the Aldermen ſhould every Year aſſemble their "Wards, and, by good Deliberation, cauſe "them to chuſe four of the moſt ſufficient "Perſons that are *in their Wards*, to be of their "Common-Council;" which Number has ſince at ſeveral Times been augmented in each Precinct, in Proportion to the Increaſe of it's Inhabitants; and many Reſolutions have thereupon been made in Common-Council to remove particular Perſons from thence, for not being Inhabitants of the Ward for which they were elected: And at length a general Act was paſſed *June* 14, 1716, Sir *Charles Peers*, Mayor, whereby it is declared, "That no Perſon ſhall be capable of being elect-"ed a Common-Council-Man of a Ward, who at "the Time of Election is not a Houſholder "*therein*." In Purſuance of all which, the Lord Mayor

Mayor gives it annually in Charge to every Alderman, "That he do cauſe ſuch a fixed Number "of the moſt ſufficient, Honeſt and Diſcreet "Men *of his ſaid Ward*, to be *for his ſaid Ward* "of the Common-Council for the Year enſuing."

As the Common Council was originally conſtituted out of the Body of the *Freemen* aſſembled in the Common-Hall, and as the Common-Hall is now to conſiſt of *Liverymen* as well as *Freemen*, it muſt be eſteemed as proper at leaſt, that the Common-Council-Men ſhould alſo be *Freemen* and *Liverymen*, as well as *Inhabitants* of the City; ſince they not only paſs Laws which muſt bind all the reſt, but frequently controul the Proceedings of the *Liverymen*, and do many Acts under the Notion and Authority of their being a ſelected Part of the *Common-Hall:* But this I only mention with reſpect to it's Propriety, for it is nowhere abſolutely ordered, That the Inhabitants ſhould be thus qualified, in order to be choſen into the Common-Council [f].

THE

[f] THAT the Common-Council-Men were in former Times uſually choſen out of the Liverymen Inhabitants ſeems implied by the latter Part of the Ordinance of the 7th of *Richard* II. whereby it is provided, "That "the Mayor, for the Time being, ſhall not receive "*throughout* the Town, of any Myſtery for the Com-

mon-

THE Time ſettled for the Choice of the *annual* Ward and Precinct Officers is on St. *Thomas's Day*, or the Morrow after, if it happens on a *Sunday* [g]; and the Election of a new *Alderman* muſt be within *four* Days next, after the Death or Reſignation of the former; which was prudently limited to be made within ſo ſhort a Time, by the Act of Common-Council here referred to [h], in order to prevent any Increaſe of Expence, or the Continuance of Tumults which too frequently happen upon theſe Occaſions.

THE Court of *Wardmote* being opened by the preſiding Officer, the *Candidates* may be either nominated by any of the Electors or propoſe

"mon-Council, more than eight Perſons of a Myſtery, "although it happens that more than eight of one "Myſtery be preſented and choſen." And further we may obſerve, that anciently all Perſons of the ſame Crafts and Myſteries uſed to live together, in the principal Streets and Diſtricts of the Wards, out of which it may be preſumed the Common-Council were choſen; and even to this Time ſeveral of the Wards retain the Names of the Companies or Guilds that reſided therein, as Cordwainers, Candlewick, Vintry, and Cornhill.

[g] BY Act of Common-Council, *September* 28, 9th of *Henry* VIII. *Exmew*, Mayor.

[h] BY Act of Common-Council, *Auguſt* 9, 1710— *Sir Samuel Gerrard*, Mayor.

themſelves; but it is cuſtomary for the Inhabitants of the ſeveral *Precincts* in each Ward to meet every Year ſome Time before St. *Thomas's Day*, in order to return a Liſt of ſuch Perſons they think beſt qualified to ſerve their reſpective Offices; which Perſons, ſo returned by their Precinct Meetings, are of Courſe put firſt in Nomination at the Wardmote in the Order as the Precincts are ranged; after whom any other Candidates may be then added to either of the Precincts, in Oppoſition to all or any of thoſe who are ſo returned.

But, although the *Common-Council-Men* are thus divided and diſtinguiſhed within their Wards as belonging to *particular Precincts*, yet with reſpect to the City they are elected, and muſt be declared to be elected as Officers and Repreſentatives of *the Ward in general*; and therefore, that the Alderman may proceed without Confuſion in ſuch Elections, it will be beſt to propoſe the Candidates returned by every Precinct ſeparate by themſelves, and to add at the ſame Time the Names of any other proper Perſons who ſhall be moved for and ſeconded; and then, after putting the Queſtion on each of theſe Perſons, to declare that ſuch and ſuch, ſo nominated or returned by the Precinct aforeſaid, are duly elected Common-Council Men of the *Ward*, and not Common-Council-Men of *ſuch a Precinct*; *and ſo to go* on and propoſe the Queſtions, and *make the* Declaration in like Manner on thoſe who

are

and nominated or returned by the next and every other Precinct; however, even after this, ſo long as the Wardmote continues open, any other Candidate may, if he pleaſes, oppoſe himſelf to all and every of the Perſons ſo before named and declared, and, if the Majority of Hands ſhall appear more in Favour of him than of any other of the Candidates, he muſt be deemed duly elected, and, being ſo elected, muſt ſerve as a Common-Council-Man of the Ward in that particular Precinct in which he who is ſet aſide had been before nominated.

I MUST beg Pardon for being yet a little farther minute in obſerving, that, upon all theſe Elections, where there is no Oppoſition, the Queſtion ought to be propoſed both for and againſt each Name; and, if the fewer Number or no Hands are held up by any of the Electors, when the Queſtion is put for their contrary Opinions, they thereby declare the Choice or Election for the Affirmative; but, if there be an Oppoſition, ſo that two or more are named for an Office into which one only is to be choſen, then it need only to be demanded, That all thoſe who are for the firſt Candidate named ſhould hold up their Hands, and ſo the ſame to be propoſed ſeparately on each of the others, and, for whomſoever the Majority of Hands ſhall appear, muſt of Courſe *be declared duly* elected.

If, upon this Declaration firſt made on the *View of Hands*, a POLL be demanded, the preſiding Officer muſt grant the ſame, and proceed thereon in Purſuance of the Directions of the Statute of the 11th of *George* I. Chap. 18. on the very Day, or next Day after it is demanded, unleſs that be a *Sunday*, and appoint and ſwear in the Clerks to take the ſame, and *Seal* and *Open* the Books each Day in the *Preſence* of the Candidates, *&c.* in like Manner as before deſcribed to be neceſſary at the *Common-Hall* Elections [1].

Every Perſon, before he be admitted to *Poll*, muſt Swear, or, being a Quaker, muſt Affirm, "That he is a Freeman of *London* and an Houſholder in that Ward, and has not Polled at that Election;" every Voter therefore ſhould be cautioned, That he be ſure he is at leaſt qualified ſo far as to be able to Swear to thoſe Particulars, though there are many other Qualifications not expreſſed in the Oath; he ought I ſay to be appriſed, that, if he be a *Freeman* of a *Company* only, he does not come up to what is ſo plainly required he ought to be, a *Freeman* of *London*; That, if he doth not abſolutely *poſſeſs* and *occupy* a Houſe or Part of a Houſe within the Ward in

[1] See Page 25, and the Appendix, No. I. and *No. II.*

his

his own Right, ſo as to be *Rated* thereto, he is no *Houſholder*, according to the Intent and Meaning of the Statute; and laſtly he ſhould not inadvertently *Poll* firſt at one Book and then at another; for, if, in either of the above Caſes, he ſhould be convicted of taking a falſe Oath, or ſhould he procure or ſuborn another to the take ſame, he will incur and ſuffer the like Penalties, Forfeitures, and Diſabilities, as Perſons convicted of wilful and corrupt Perjury at Common Law are liable unto.

WHATEVER Perſon ſhall at ſuch Elections refuſe or neglect to take the above Oath, or, being a Quaker, affirm the Effect thereof, or ſhall refuſe or neglect to take the Oaths of *Allegiance*, &c. (if required) His Vote and Poll is null and void, and the preſiding Officer, and his Clerks, are impowered to adminiſter all the ſaid Oaths, or, upon their Neglect or Refuſal, they, for ſuch Offence, are to forfeit Sixty Pounds, &c.

THE Poll, being thus opened and commenced in due Time, muſt be proceeded upon from Day to Day, and finiſhed within *three* Days, excluſive of *Sundays*, and within *two* Days after the Numbers are to be duly caſt up at the Place of Election, and, within *two* Days after ſuch caſting up, the *Numbers of the Votes* or Polls for each Candidate

didate are to be publicly declared; ſo that, if the preſiding Officer will take up all the Time which the Statute thus allows, the *Poll* at a *Ward-mote*, and the Declaration thereon, may poſſibly not be determined, until the End of *ſeven* Days.

But I muſt in this Place again obſerve, that, though the Statute allows ſuch a Proportion, as the fartheſt Time to which a Poll may continue, yet, upon Agreement by the Candidates, and Conſent of the preſiding Officer, it may be cloſed ſooner; nor is he, who preſides, bound to defer his Declaration, until two Days after the Books are caſt up; but may, if the Numbers are known, immediately declare who have the Majority; but however in this he ought to purſue the ſame Caution, as before recommended to the Sheriffs at the Common-Hall Elections, and inſiſt on the Candidates, or two of the Voters for each, ſigning ſuch Agreement in Writing, at what Hour on each Day the Poll ſhall be begun, and when the Whole ſhall be ended; from which he ought not on any Account to deviate, unleſs the Parties to ſuch firſt Agreement conſent to renounce it, in the ſame formal Manner under their Hands.

And here again be pleaſed to take Notice, that, if, upon the Election of *Common-Council-Men*, a *Poll* ſhould be demanded between ſeveral Candi-

dates

dates put up for *different* Precincts, the Alderman has no Right to confine the Oppoſition to the particular Precincts; but the Poll muſt be opened and taken for their Election as for Officers of the *Ward* in general; and accordingly, which ever has the greateſt Number, upon the Whole, muſt be admitted and ſworn, without regarding in what *Precinct*, or againſt *whom*, the particular Oppoſition was firſt of all formed.

If the Declaration upon the *Poll* be not ſatisfactory, and a SCRUTINY thereupon is demanded, it muſt be granted jointly to both Sides, as if mutually demanded in the Manner as I ſuggeſted upon granting a Scrutiny at the Elections by the Liverymen; and a Number of *Scrutineers*, not exceeding *Six* on each Side, muſt alſo be nominated, to whom, at the joint Coſts and Expence of all the Candidates, the preſiding Officer muſt within *Six* Days after deliver the Copies of the Poll Books ſigned by himſelf, and which it is incumbent on him to deliver unto *All* the Candidates at one and the *ſame* Time, that they may be equally prepared to ſtart together in forming their Objections againſt the reſpective Voters.

THE preſiding Officer having thus far executed his Part, the Candidates, or their Scrutineers, within *Ten Days* next after the Receipt of the Co-

pies of the Poll, are to deliver to him the Names in Writing of the ſeveral Perſons againſt whoſe Votes they object, with the particular Objections againſt each Name; and thereupon he again, within *three* Days then next following, is to deliver unto each of them one or more Copy or Copies of the Paper, containing ſuch Names and Objections made on the other Side, and, within *Ten* Days after, excluſive of *Sundays*, having fully heard both Sides, touching their Objections, he muſt publicly declare, at the Place of Election, the Number of legal Votes for each Candidate, and which of them is or are duly elected [k].

But, upon theſe Elections, there are many Particulars to be carefully obſerved in the neceſſary Preparations before the Parties come to an Examination upon the Scrutiny, both as to the *Time* in which the ſeveral Steps are to be taken, as alſo to the *Form* of drawing up and ſtating their ſeveral Objections.

They who have been declared upon the *Poll* will moſt likely be ready to take all Advantages to fruſtrate the ſubſequent Proceedings, and therefore it is an adviſeable Caution for the other Candidates, who think they have the Merits upon the

[k] See the Appendix, No. III.

Scrutiny,

Scrutiny, not to run into any Hazard of Doubts, which may ariſe upon Points of Irregularity, relating to Time, Form, or any other Nicety of Law.

THE Statute firſt directs, "That the Scrutineers ſhall deliver in their Objections to the "preſiding Officer *within* ten Days after the Receipt of the Copy of the Poll Books; and that "he ſhall, *within* three Days next after, deliver "the Copies of ſuch Objections to each of the "Candidates, and *within* ten Days then next following (excluſive of *Sundays*) openly declare, "which of the Candidates are duly elected." From whence ſome Queries have been raiſed, whether theſe Words *within ſo many Days* after the Receipt, or Delivery, *&c.* ſhall be ſo conſtrued, as to include the Days in which the Acts are directed to be done, or whether the Time is to be reckoned excluſive of thoſe Days: Now the Computation of Time in Law is in many Inſtances various and unſettled, but, as to *Penal* Acts of Parliament, Courts of Juſtice have generally put the moſt favourable Conſtruction, ſo as to prevent the Parties incurring a Penalty, where there is any reaſonable Foundation of Doubt; and therefore, as this, to the preſent Purpoſe, is a Penal Statute, it is reaſonable to yield the largeſt and moſt equitable Allowance,

and to *exclude* in the Calculation the ſeveral Days from whence the Time is to be computed, by which Means the Parties may have longer Opportunity to prepare their Allegations, and avoid any Irregularity in other Matters.

THE Scrutineers then muſt take Notice, that they are to deliver their Objection within *ten* Days *after* the Day in which they received the Copies of the Poll, out of which *Sunday* not being excepted, if that ſhould happen to be on the *Tenth* Day, the Objections muſt be *then* preſented [1].

BUT, ſuppoſe both Parties exceed the fartheſt Time wherein they ought to deliver their Objections, does this ſet aſide the *Scrutiny*, and leave the Election as it ſtood on the *Poll?* or ſuppoſe one Side proceed in the due Period, and the other exceed their Limits, can the preſiding Officer accept the Objections that are tendered *out of Time*, or muſt he refuſe them, and ſtop all further Proceedings, or proceed *ex parte* upon thoſe which are duly preſented? Theſe are Circumſtances which have heretofore happened, and Queſtions, as above, have thereupon been ſtarted, and much canvaſſed

[1] So done upon the Election for an Alderman in the Ward of *Cheap*, 1739. Sir *Joſeph Eyles* againſt *Richard Hoare*, Eſq.

both

both in the City and at *Weſtminſter-Hall*[m]: But here again the Intent of the Statute, which preſcribes theſe Rules and Orders, muſt be our Guide, which we find has inflicted a Pecuniary Puniſhment on any Perſon or Perſons who ſhall offend againſt what is therein directed, and the Statute has expreſſly directed, that the Objections ſhall be delivered within *Ten* Days after the Receipt of the Copies of the Poll: If both Parties therefore have exceeded the Bounds, it muſt be deemed ſuch an Irregularity as may juſtify him, who is to preſide, in refuſing to accept their mutual Objections; but, although he may in Strictneſs of Law be juſtified in ſuch a Refuſal, yet it cannot be recommended as fair and equitable ſo to vacate all Proceedings upon any ſlight Neglect, whilſt there is ſufficient Opportunity for both the Parties to receive the Copies, and go through their Examinations and Proofs; for, ſhould the preſiding Officer thus drop the Scrutiny, it would give the Candidate, who had the Majority on the *Poll*, an Advantage obtained by his own Irregularity: However this diſcretionary Power of going on with the Proceedings is recommended only, when *Both* the Parties have only exceeded a Day or two beyond the Time, and that owing perhaps to their mutual Agreement, or to their Inadvertency in not computing the

[m] EASTER Term 1729. Upon Motion for a Mandamus to Sir *Richard Brocas*.

intervening *Sunday* or *Sundays* in the Account, which Day, as I before obſerved, is not excepted in this Part of the Act. But, if *One* of the Candidates ſhould deliver in his Objections on the tenth Day, and none ſhould be tendered by the *other* Side, until the eleventh or twelfth, then there may be more Reaſon for the chief Magiſtrate to reject theſe, which were not offered within the due Time with the firſt, becauſe the Intent of the Statute ſeems to be, that the Objections on *both Sides* ſhould be preſented within the Time preſcribed, in order that, as the *preſiding Officer* is within three Days next after to deliver out Copies thereof, *both the Parties* might have equal Opportunity to prepare their reſpective Anſwers, and therefore it would be hard for him, who had purſued the Directions of the Act, to loſe the Benefit of his early Application, by Reaſon that the other Candidate had not produced his Objections, until a Day or two after, by which Means the Scrutineers, who were firſt ready, muſt wait ſo much the longer before they could receive the Copies of thoſe Objections which were laſt delivered: In this Caſe therefore, as the Delinquents ought rather to ſuffer, the other Party have a Right to inſiſt, that Cogniſance may be taken of ſuch Objections only as were regularly preſented; but, notwithſtanding the *preſiding Officer* may in this Inſtance refuſe the Objections which came in too late, yet, if he thinks *fit to receive* them, and delivers out Copies there-

of

of Time enough for the other Side to prepare their Anſwers, before the Day appointed for the Hearing, the Scrutiny muſt go on[n], and the Declaration made upon it will not be ſet aſide on Account of ſuch Irregularity; for ſuppoſing the Acceptance of the Objections to the Prejudice of the other Party, when ſo tendered too late, ſhould be deemed even an Offence againſt the Statute, yet it is no-where declared, that ſuch Offence ſhall make void the Proceedings, and therefore the Party aggrieved, being left to his Remedy by a Proſecution for the Penalty, he who preſides may enter upon the Examination, and, after hearing both the Parties touching their Objections, his Declaration upon the Cloſe of the Scrutiny, if juſt and equitable according to the Merits, ſhall decide the Election; but, if *either* of the Parties ſhould be ſo backward, as not to offer his Objections Time enough for the other Side to receive Copies thereof, and prepare their Anſwers by the *Day* fixed for entering upon the *Examination*, then ſuch Objections are abſolutely to be proteſted againſt, ſo that, if they have been ſo long poſtponed by the Candidate who had the *inferior* Number upon the *Poll*, the Determination ought of Courſe to go againſt

[n] So agreed upon the conteſted Election between Sir *J. Eyles* and *Richard Hoare*, Eſq. for the Office of Alderman *in the Ward of Cheap*, 1739.

him.

him without further Proceeding; or, if it be the Neglect of the other, who had the *Majority*, he must now be content to be proceeded against *ex parte*, and, by being debarred from urging any contrary Allegations, submit to the Numbers he can save by his own Defence. Lastly, should *Both* the Candidates be so very tardy, as not to present their Objections within the due Time before the Day appointed for the *Hearing*, the Presumption must be, that the *Scrutiny* is given up, and the Election must remain as it stood on the *Poll*, without any further Declaration.

On the other Hand, the *presiding Officer* is to observe, that, if either of the Parties, instead of being too dilatory, should be so early in their Application, as to offer their Objections *before* the 10th Day, he must accept them on whatever Day they are so offered; for the Statute doth not express, that the Objections shall be delivered precisely *on* the 10th Day, but only *within* ten Days next after the Receipt of the Copies of the Poll.

But then the same Clause directs, "That the pre-
"siding Officer thereupon shall, within *three* Days
"*next following*, give out to the other Candidates
"or Scrutineers one or more Copies of the Paper,
"containing such Names and Objections as afore-
"said;" now, although the Objections may be *accepted* at any Time within the ten Days, yet I

do

do not apprehend, that the preſiding Officer is bound to proceed with equal Quickneſs, ſo as to deliver out Copies thereof within *three* Days next after ſuch *Acceptance*; for, were he to guide himſelf by this Conſtruction of the Words, then, as each Party might give in their Objections at different Times, ſo each would receive the Copies alſo at different Times, which would conſequently introduce great Confuſion, and be attended with a manifeſt Diſadvantage to thoſe who were firſt prepared; for Example, ſhould the Scrutineers on one Side deliver their Objections to the preſiding Officer ſo ſoon as the *fifth* Day after they received the Copy of the Poll Books, and he in Purſuance thereof ſhould, within three Days *then next* following, give a Copy of thoſe Objections to the other Party, who in the mean while ſhould forbear delivering *his* Objections, until the *tenth* Day; in ſuch Caſe this Candidate, who came laſt, would receive a Copy of what, and againſt whom, his Antagoniſts had objected, even before he had made out his own contrary Allegations; and by this Means be a long Time prepared to anſwer before the other Side are ſo much as appriſed, what Numbers are intended to be objected againſt them: This ſhews, that it is rather the Duty of him who preſides to adhere to ſome fixed Rule of Notice, in order that both the Parties may receive the Copies of each other's Objections *at one and the ſame* Time, that ſo the Proceed-

ings

ings may be carried on in a regular and even Courſe of Juſtice; and accordingly it ſeems to be the faireſt Conſtruction of this Clauſe, that he ought not to deliver out ſuch Copies, until the *third* Day next following the *Expiration* of the *ten* Days, within which Time the Objections were to be preſented unto him; for, although he may indiſcriminately leave it to both the Candidates to proceed at their own Leiſure, yet, if he were to govern his Conduct by the Reſult of theirs, he would find, that, as they acted variouſly, he would be led into Perplexity and Confuſion by following their different Steps.

But there is yet a further and a very material Point to be ſettled, which is intirely left to his own Appointment; for although the Statute directs, "That the preſiding Officer ſhall, within "ten Days after he has delivered Copies of the "Objections, (having *heard* the Candidates *touch-* "*ing* ſuch their *Objections)* declare, which of "them is duly elected;" yet there is no Day fixed, when he is to enter upon ſuch Examination, and *hear* the Parties *touching their Objections:* Now it muſt be ſuppoſed, that ſome Time will be required for the *Scrutineers* on each Side to prepare their Anſwers; another Part of the Time will be taken up in hearing publicly what each have to ſay in their own Defence, and in Support of what they alledge againſt the others; and ſome Leiſure *muſt be allowed* to the *preſiding* Officer to recollect the

the Proofs, and form his Judgment, ſo as to make a fair and juſt Deciſion: He therefore is here to uſe his own *diſcretionary Power*, and divide the ten Days into ſuch Proportions as may beſt anſwer theſe ſeveral Purpoſes.

From hence the *preſiding Officer* may learn how cautious he ought to be to act *his* Part duly and regularly, and not in the leaſt to be led aſide by the Behaviour or Importunity of either of the Candidates: If they are guilty of any particular Miſconduct, it will not, as before obſerved, unleſs carried too far, make void the Proceedings; but the Miſbehaviour of him, who *preſides* over the Whole, may give very unequal Advantages to one Side, ſo as to endanger the Right of Election, or even to ſtop both the Parties from coming to the Proof of their Merits; the Puniſhment for ſuch a Miſbehaviour in his Office, it is true, is, according to the Statute, only the Forfeiture of Two Hundred Pounds. But is muſt be ſuppoſed, that one, who is, in ſuch a Station in the City as to *preſide* at theſe Elections, will make the Regard to his own Honour and Reputation in the World a greater Tye to his good Behaviour, than the Dread of any Penalties from Informations or Proſecutions at Law; in order therefore, that ſuch a one may act conſiſtent to his Character, and the Duty of his Office, he ought to purſue the Directions of the Statute by a *certain* and *determinate* Method;

and

and to that Purpoſe, ſo ſoon as the *Scrutineers* are appointed, he ſhould calculate and fix upon the ſeveral Periods of Time in which he will give out Copies of the Poll Books; receive the Objections; deliver out Copies thereof; enter upon the Examination; and finiſh the Scrutiny; and thus notify, in Writing, what the particular Days are in which he has ſettled each particular Act to be done, and, according to the faireſt Computation, peremptorily appoint the *ſixth* Day after the Scrutiny is demanded, for the Candidates to receive the *Copies* of the *Poll* Books, and the *tenth* Day, at fartheſt, next after ſuch *ſixth* Day for the *Delivery* of the *Objections* to him, and the *third* Day next after ſuch *tenth* Day for his *giving* out *Copies thereof* to each, and then appoint ſuch Time for his *entering upon the Proofs*, as may be ſufficient *for* his own Information, and ſatisfactory to both the contending Parties; and herein be pleaſed to take Notice, that the *Wardmote*, from the Cloſe of the *Poll*, muſt be *adjourned* to *that particular Day*, which is ſo appointed for *entering* upon and *hearing* the Merits and Proofs touching the *Objections*.

ACCORDING to this Method of regulating the Time upon each Step and Proceſs, the POLL, though it muſt be finiſhed in *three* Days, may not be declared, until the *ſeventh*; and from thence to the *Declaration* upon the SCRUTINY will be

be about *thirty* Days more, including all the intervening *Sundays*.

THE contending Parties, being thus prepared to proceed in *Time*, muſt have been equally diligent all the while in adjuſting the *Form* of their Proceedings, and in getting good Intelligence againſt whom to object; and in procuring the proper Proofs and Evidence for the Support of what they intend to alledge.

To this Purpoſe, it is uſual, upon a nice and warm Conteſt for both Sides, to print a Liſt of the Names of thoſe who voted againſt them, with an Advertiſement at the Head, ſetting forth the ſeveral Diſqualifications, and deſiring their Friends to detect all ſuch Pollers in the ſaid Liſt as lie under any of thoſe Diſabilities, by which their Right of Voting may be called in Queſtion.

THE *Scrutineers*, in the mean while are to inſpect the ſeveral Ward and Pariſh-Rate Books, and examine the Collectors thereof, in order to diſcover, who were deficient in not being *rated*, or in not *paying* to the full of what they ought, before the Time of Election: This is an Objection that moſt frequently occurs, and therefore, by ſuch an Inquiry, they not only pick out and detect the bad Pollers for the Candidates, whoſe Intereſt they oppoſe, but alſo find out which of their

own

own Friends are liable to the like kind of Objection, and so prepare themselves accordingly to make their Defence.

After having fixed upon the Number of Persons they intend to object to, it is adviseable to draw up and deliver to the presiding Officer a *general Objection* against each Poller, as if he lay under every Disqualification, although they intend to point out, upon the Hearing, but one or two in particular; for, if only this or that Objection be given in, they must confine themselves to the Proof of *that* singly, and be precluded from the Liberty of urging *any other*, which may perhaps be afterwards discovered; because the Intent of delivering the Objections to the presiding Officer, as I mentioned before, is both for his Information, and also that he may apprise the other Side by the Delivery of the Copies, what are intended to be alledged against them, and consequently therefore he should not hear any other Matters discussed than what are so prepared by Way of Notice and Information.

To this Purpose I have taken the Liberty to submit a Specimen of the Form of a general Objection in the Appendix, No. XII. collected from every Circumstance mentioned in the Statute, which either gives or takes away the Right of Voting; *and which*, according to the Direction of the Act,

must

muſt be particularly written *againſt* each reſpective *Name*, to whoſe Vote they ſhall object; and therefore to write an Objection againſt the firſt Name only, and then by Way of Abbreviation to put the Word *Ditto* to all that follow, may be deemed no Objection at all as to them.

THE Objections being delivered to the *preſiding Officer*, it now comes to his Turn again to act with that equal Indifference as to avoid at leaſt any Objection being made to him; he therefore muſt begin to tranſcribe the Copies in the moſt private Manner, and conceal whatever Neglects, Deficiencies, or Irregularities either Side may have committed, as to Time, Form, or Method of Proceeding; for, as he is to judge between both, he is by no Means to inform one Party of the Steps which the other have taken; the Statute no-where directs, that the Scrutineers ſhould come together to preſent their Objections, or that they ſhould both follow one and the ſame Method of drawing them up; each muſt be ſuppoſed to know what the Law requires, and, if they fail in their Obedience, it muſt be at their own Peril; but he ought however to give Notice to both to come *together*, and receive the Exchange of their reſpective Objections; for, as they ſet out at one and the *ſame* Time to prepare thoſe Objections, upon the Receipt of the Copy of the Poll, ſo

ought

ought they to have equal Opportunity allowed for their mutual Defence.

And now, the Candidates and Scrutineers being prepared and met at the Day and Place agreed upon, the *preſiding* Officer is fully to hear ſuch of the ſaid Candidates as ſhall deſire the ſame, or ſome Perſon appointed by them, touching their Objections; therefore, upon a Requeſt being made, any *other Perſon* it ſeems may be appointed to aſſiſt the Candidates and Scrutineers in ſpeaking to and explaining the Points in Diſpute; but this is very ſeldom deſired, ſince it muſt be ſuppoſed that ſuch Scrutineers are always choſen as are of ſufficient Abilities to manage the Examinations and Proofs of their ſeveral Objections; in which it is uſual for each Party to proceed alternately againſt every Poller, in the Order they are ranged in their ſeveral *Precincts*: And herein it is generally expected that the *preſiding Officer* ſhould publicly declare his Opinion upon each Objection, at the Time and in the Order they are propoſed, and not reſerve any Points, except ſuch as are really doubtful, to an after Conſideration. This is injoined to be obſerved upon the Elections at the *Common-Hall*, by the Act of Common-Council before cited, of *December* 6, 1712, Sir *Richard Hoare*, Mayor °; but, how-

° See Page 31.

ever,

ever, ſince there is no expreſs Order to this Purpoſe, with reſpect to thoſe who preſide at a *Ward-mote Scrutiny*, it muſt be left to their own Diſcretion, in which it cannot be doubted, but that the moſt open and candid Behaviour will always be the moſt ſatisfactory.

HAVING thus far diſcuſſed the ſeveral Points to be ſettled, with reſpect to the *Time* and *Manner* of Proceeding, we muſt now examine by what Rules of *Juſtice*, or *Equity*, the *Right* of Voting is to be determined upon the *Hearing* of every Objection.

To this Purpoſe, I muſt offer ſeveral Obſervations on each Clauſe of the Statute made for Regulating theſe Elections, which in any Manner affects the Rights of the Freemen Inhabitants of the City, with reſpect to the Choice of *Aldermen* and *Common-Council-Men*; and, in doing this, I will purſue the ſame Method I have before laid down; firſt, explaining, in as clear a Manner as I am able, the *Reaſons* and *Principles* upon which the Right of Voting is to be conſidered, and then ſubjoining to each Article the particular *Caſes* on which any Doubts may ariſe, with the *Determinations* they ought to receive; for I cannot well be too explicit in this Attempt, which is intended to deſtroy all Advantages that may be taken from Obſcurity, or any Kind of Uncertainty.

AND,

And, firſt, it muſt be obſerved, that, by Section 7. of this Statute, it is expreſsly enacted [p], "That "the Right of Election of Aldermen and "Common-Council-Men for the ſeveral re- "ſpective Wards of the City ſhall belong and "appertain to Freemen of the ſaid City, being "Houſholders and paying Scot, and bearing Lot, "when required, as therein is after-mentioned "and provided, and to none other whatſoever." But then the following Proviſo's are not very clearly expreſſed, from a Neglect of Accuracy in not connecting them more properly; for the *eighth* Clauſe and Part of the *tenth* ought to be joined together, the ninth being placed between by Way of Parentheſis; and the latter Part of the tenth Clauſe, relating to *Partnerſhips*, ſhould have ſtood ſeparate by itſelf, as the ſubſequent one does relating to ſeveral *Inhabitants*; and then the Whole might be read as follows:

Section 8th, "Provided that the Houſes of "ſuch Houſholders be of the Value of ten Pounds "a Year, and that ſuch Houſholders be the ſole "Occupiers thereof, and have been in Poſſeſſion "of a Houſe of ſuch Value in the Ward, twelve "Kalendar Months next before the Election."

And provided, (as in Section 10.) "That ſuch "*Houſholder* ſhall, within the Space aforeſaid,

[p] See Appendix, No. V.

"have

" have been Rated and Paid his Scot to all and " ſingular the Rates, whereunto the Citizens of " London, inhabiting therein, are or ſhall be " liable, or Thirty Shillings a Year, at leaſt, to " all or ſome of them [u]."

And then Section 9th ſhould follow, in which the ſaid Rates and Taxes are aſcertained, and whereby it is declared, " That, in Caſe ſuch Houſ- " holder has been charged to, and paid all the " ſaid Rates, or Thirty Shillings a Year to all " or ſome of them, he then ſhall be deemed and " taken to be a Perſon paying Scot [x]."

And here the latter Part of the 10th Section ſhould begin, " That, in Caſe any two or more " Partners carry on a joint Trade in ſuch Houſe, " ſuch Partners, paying their Scot in Manner " aforeſaid, and bearing their reſpective proper " Lots, ſhall have Votes."

The Clauſes being thus placed in a more natural and leſs confuſed Order, we may the more eaſily explain the diſtinct Qualifications deſcribed in each as neceſſary to intitle one to Vote; but it is great Pity that an Act intended, as declared in the Preamble, " For ſettling the Right and " Freedom of ſuch Elections, and putting a Stop " to Controverſies and Diſſenſions, and the ill

[u] See Appendix, No. VI. [x] Ibid. No. VII.

" Conſequences of the ſame," ſhould be ſo drawn up, as to admit of and tend to different Conſequences, on Account of the Variety of Conſtructions which may be put upon the Meaning of each Clauſe; however, I muſt again recommend, that in Diſputes amongſt *Fellow-Citizens*, relating to their Right of chuſing their *own Officers*, the moſt favourable Interpretation be put upon every doubtful Meaning; and I hope, in propoſing theſe Principles, to obtain the Concurrence of all ſuch contending Parties, who have no other View by demanding a Scrutiny than *that* of detecting thoſe who really and in Conſcience are not intitled to the Privilege of Voting.

THE *firſt Qualification* to Vote at theſe Elections, according to ancient Cuſtom, as well as the laſt Act of Parliament, is that of being a *Freeman of the City of London*; ſo that on one Hand to be free of a *Company* only is not ſufficient, nor is it neceſſary on the other, that he ſhould be on the *Livery*; nor is any *Time* limited how long he ought to have taken up his Freedom; for, if he gained his Copy but the next Day, or Hour, or any Time before the Commencement of the Election, it will be ſufficient; which Election is always ſuppoſed to be made upon the *Holding up of Hands*, as I have more than once mentioned before, the Poll and Scrutiny being only the ſubſequent Proceedings thereon to adjuſt the Numbers

and

and proper Qualifications, which, when adjuſted and declared, have Reference back to the *firſt* Election, the Right of which is here to appertain to none but Perſons at *that* Time properly qualified as *Freemen*; for the *Poll* thereon can be demanded only by the Candidates, or any two of the *Electors*, which implies thoſe who had then a Power to *Elect*; and, as none but ſuch could demand a Poll, ſo none but ſuch can have a Right to Vote at the Poll; and therefore a Freedom obtained *after* Holding up of Hands, in order to intitle one to take the Oath upon Polling, "That he is then a Freeman," inables him, indeed, to ſwear what is true, but doth not antedate his Right of Voting; the particular Caſes therefore upon this Point may be ſtated and anſwered in the following Manner:

A —— is Free of a Company, but not Free of the City.

BAD[y].

B —— was not made Free of the City until the Day of Election, but was admitted before the Declaration made at the Wardmote upon the View of Hands.

GOOD[z].

[y] So determined upon the conteſted Election between Sir *J. Eyles* v. *R. Hoare*, Eſq. 1739.

[z] So determined upon the Mandamus, *Egleton* v. *Ewer*.

C —— was admitted to his Freedom on the ſame Day, but it it was after the Declaration made on the View of Hands, though before the Poll.

BAD[a].

Such Freeman in the next Place, being admitted in due Time, muſt by Sect 8. "be a "Houſholder — the ſole Occupier — and in Poſ-"ſeſſion of a Houſe within the Ward, of Ten "Pounds a Year Value — for twelve Kalendar "Months next before the Election."

Taking therefore theſe Qualifications into diſtinct Conſiderations, it muſt be obſerved, That a *Houſholder* is underſtood to be him, who *Inhabits* and is *Rated* to ſuch a Houſe, whether he be real Owner or Tenant thereof, or whether he doth or doth not Diet or Lodge therein; for provided he appears as the Inhabitant, ſo as to be ready to anſwer every Demand, and ſubmit to all Offices, Duties, and Taxes, as the reputed Owner of ſuch Houſe; and his Name be ſo ſet down in the common Rate-Books; he then properly comes under the Name of a *Houſholder*, though he may not perhaps be a Houſekeeper therein; inſomuch, that if a Citizen ſhould happen to have two Houſes in

[a] So determined upon the Mandamus, *Egleton* v. *Bower*.

different

different Wards, making Uſe of one for the Conveniency of Trade only, and of the other for the Lodging for his Family, and is Rated to both, and frequently attends at the one and the other, he muſt be deemed a Houſholder in both the Wards, and ſo far conſequently intitled to a Vote in each.

So alſo, as to being the *ſole Occupier* of a Houſe, it is not neceſſary that *one* only with his Family ſhould live in or belong to it, for, whatever Number of Lodgers or Inmates there may be, yet he who is the Owner or Tenant of the Whole, and who is *ſolely rated* thereto, is the only Perſon that ought to be looked upon to be in the ſole Occupation of it: On the Contrary, if a Landlord is only in the Poſſeſſion of a Houſe which he never lives in, though rated thereto, but ſuffers a Stranger to be the ſole Occupier thereof, who is not Taxed, although he is the Inhabitant; in ſuch Caſes neither the Owner, nor the Occupier, are any Ways intitled to a Vote; for it muſt be diſtinguiſhed in either Inſtance, that the being Rated to a Houſe, and not in the Occupation of it, or being the Occupier and not Rated, are equally inſufficient Qualifications.

Upon this Definition of ſuch a Houſholder and Occupier of a Houſe as is intitled to a Vote, the Determinations of the following Points are here *ſubmitted:*

A—— is Rated to a Houſe and appears as the Inhabitant, and performs all Duties required, but he does not Diet or Lodge therein, as he makes Uſe of it chiefly for the Conveniency of Trade.

G O O D.

B—— is the Occupier of a Houſe, but ſubmits to no Rates, the Landlord having undertook to Anſwer the ſame.

B A D.

C——, the Landlord, as in the preceding Caſe, is Rated, but ſuffers B to be ſolely in the Occupation of the Houſe.

B A D.

D—— ſolely Rents and is ſolely Taxed to a Houſe, and Occupies one Part of it himſelf, and the reſt he Lets out to Lodgers and Under-Tenants.

G O O D.

The next Objection that follows is for not being in the Poſſeſſion of a Houſe of the *Value* of Ten Pounds *per Annum*; now the Value of ſuch a Houſe muſt be to the true and real Amount of Ten Pounds a Year at leaſt, eſtimated by the *Price any one would* give for it, or by the Proportion *it is* charged with in the Tax Books, or by

by the Rent that is actually paid for it: A Houſe Occupied by the Owner himſelf, or a Tenant at Rent free, may yet be Computed and Taxed, as being above the yearly Value of Ten Pounds; but, if leſs Rent than that be paid, it muſt be Valued at ſo much the leſs, whatever more it may be thought to be worth; for the *Rent* that is demanded ought to be in the firſt Inſtance the Meaſure of it's Value, unleſs it be proved that ſome other Conſideration was given by the Tenant, as a *Fine* for Example paid on the Entrance, which may be computed as equivalent to a Rent of Ten Pounds; ſo likewiſe if it is agreed to go at a greater annual Rent, and the Tenant is allowed back a Quarter's Payment on Account of Repairs, whereby he will actually pay that Year *leſs* than the Ten Pounds, yet the Value of the Houſe itſelf muſt not therefore be ſuppoſed to be diminiſhed; for the Proof that ſuch a one is a Houſholder of a Houſe of ſuch a Value muſt ariſe from the Evidence of the Agreement to pay *ſo much* for it, whether that Rent be *actually* paid, or *from what Time* ſoever it was to Commence, does not diſprove the Qualification, provided ſuch it's annual Value was aſcertained, and the Poſſeſſion thereof delivered Twelve Kalendar Months next before the Election; and provided it has been actually *Rated* and *Taxed* within that Time to the Proportion of ſo much Rent: For, after all, the chief Proof of the *Value of* a Houſe muſt ariſe from the Evidence

of it's being *Taxed* to ſuch a Proportion, which may be ſoon known by Reference to the Collectors of the Land-Tax, or rather in this Caſe, as it is a Ward Duty, by the Proof of what is paid to the *Lamp-Rate*, by Reaſon that the Statute of the 9th of *George* II, made for the better *enlightening the Streets of London*, has, in Section the 1ſt, preſcribed the different Proportions of the Rates and Aſſeſſments thereby to be raiſed on the Inhabitants; that is, that and each Houſe *under* the yearly Rent of Ten Pounds is not to be charged with a Sum exceeding Seven Shillings a Year, but every Houſe *above* the yearly Value of Ten Pounds is to be charged in a higher Proportion; conſequently therefore, as all the Houſes are every Year charged by an occaſional *Act of Common-Council*, in Purſuance of the Direction of the above Statute, the *Proportion* of the *Rate* ſubmitted to be paid by each Inhabitant is a previous Declaration and Evidence of the *Rent* and *Value* of the Houſe; and, if it be not Taxed to the Proportion of a Houſe of Ten Pounds a Year, the other Proofs of it's being worth more ought not to avail; for the Privilege of Voting is allowed not merely on Account of paying ſo much Rent to a Landlord, but becauſe the Community receives a Benefit by the Payment of ſuch a Duty to the Ward.

A PERSON

A PERSON in the Poſſeſſion of *two* Houſes in the ſame Ward, which both together amount to Ten Pounds *per Annum*, though neither ſingly are ſo, ought, in common Equity, to have equal Allowance as the Occupier of one Houſe of that Value; for thus the Statutes relating to the Poor are expounded, ſo as to allow the Payment of Six Pounds a Year for one Tenement, and Four Pounds for another, to be equivalent to one Rent of Ten Pounds, for the Purpoſe of gaining a Settlement; and therefore in this Caſe if it appear, that the Perſon does the *ſame* Duty and pays *equal* Rates to one inhabiting a Houſe of Ten Pounds a Year, that is ſufficient, and is all that ought to be required towards gaining a Qualification; and this Clauſe ought more eſpecially to have a liberal Conſtruction in Favour of a Right which was prior to the Act of Parliament. The ſeveral Caſes therefore that ariſe upon this Point may thus admit of a reaſonable Allowance:

A —— lives in a Houſe for which he pays no Rent, but it is Eſtimated and Taxed at more than Ten Pounds.

GOOD,

B —— agrees to pay more than Ten Pounds a Year, but, by Reaſon of ſome Repairs wanting, his Landlord excuſes him Part of the Rent.

GOOD.

C —— pays only Eight Pounds a Year, but it is on Account of an extraordinary Fine paid on Entrance, in Lieu of a higher Rent, the Houſe being actually worth more and Taxed to more than Ten Pounds.

GOOD.

D —— pays leſs Rent than Ten Pounds for his Houſe, and is Taxed at leſs, and, though he ſurmiſes it is worth more, yet proves no Equivalent offered, by which it might be computed to be of greater Value.

BAD.

E —— rents two Houſes joining to each other, or in different Parts of the Ward, which both together are Taxed to the Amount of Ten Pounds a Year, though neither of them ſingly are worth ſo much.

GOOD [b].

[b] So determined upon the Trial for a Mandamus, *Egleton* v. *Ewer*, 1740.

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The *Time* in which ſuch Houſholder muſt be in the Poſſeſſion of a Houſe of ſuch a Value is the Space of *twelve Kalendar Months*; which Term therefore muſt be complete, and fully ended before or at the Day of Election upon the View of Hands: As the Computation of Kalendar Months is from the firſt Day of *January* to the firſt Day of *February*, and ſo on; ſo likewiſe, if Poſſeſſion be delivered in the Middle of any Month, the Space of Time muſt be reckoned to the ſame Day of the ſame Month in the Year following.

It is not requiſite, that a Perſon ſhould continue all the While in the Poſſeſſion of the *ſame* Habitation, for, if he lives Part of the Year in one Houſe, and then removes into another, both in the ſame Ward, and each upwards of *Ten Pounds* a Year, if he has thus remained an *Inhabitant* of the *Ward* during the whole twelve Months, and been accountable for all Duties and Services thereto belonging for each Houſe, immediately from his leaving the one to the Inſtant of his Entrance into the other, without any Interruption or Break of Time, he then ought to be conſtrued to be within the Words of the Statute, which only requires his having been actually in the Poſſeſſion of *a Houſe* (not of this or that particular Houſe) in the Ward

wherein the Election is made for twelve Months before.

The uſual Time, we know, for Tenants to enter, is on one of the Quarter Feaſt-days, though perhaps he may be admitted on ſome other intermediate Day, and even before the Time from whence his Rent is to commence; in which Caſe it muſt be proved, that it was then an actual Delivery of the Poſſeſſion, by giving up the Keys, *&c.* and not a bare Licence or Liberty to enter for the Sake of making Preparations againſt the Time that he was to become Tenant; for the Words of the Statute are, That he muſt have *actually* been in the *Poſſeſſion* for twelve Months before, ſo that his being a Houſholder muſt be computed from the Time only that he was allowed to be the actual Occupier of the Houſe in his *own Right*, ſo as to become accountable for all Duties and Services belonging to the ſame, in the Manner as here ſtated under the Circumſtance of each particular Caſe:

A —— entered into Poſſeſſion the 22d of *December*, the Election for Common-Council-Men, upon View of Hands, was declared on the 21ſt of the ſame Month, being St. *Thomas's-day* in the Year following; but, as a *Poll* was demanded, he did not Poll until

til the 22d, at which Time his Year was complete.

BAD[c].

B —— has lived for ſome Time in one Houſe within the Ward, and ſome Time in another, ſo as to have been an Inhabitant of the Ward for a whole Year, and has anſwered all Duties for the ſame without Interruption.

GOOD.

C —— entered into Poſſeſſion by Conſent of his Landlord on the 21ſt of *December*, being St. *Thomas's-day*, though he was not to commence paying of Rent until the 25th, being *Chriſtmas-day*, and the Election was on St. *Thomas's-day* the Year following.

GOOD.

D —— was to commence Tenant, as above, on *Chriſtmas-day*, and, though he had Leave by the former Tenant now and then to enter the Premiſes for to order Repairs, yet the actual Poſſeſſion was not delivered to him

[c] VIDE a parallel Caſe to be determined upon Elections at the Common-Hall, with reſpect to a Liveryman's not having been twelve Months complete upon the Livery, *&c.* at the Time of Election, Page 35. And ſo determined upon the Trial of the Mandamus, Egleton and *Exter.*

by

by the Landlord, until *Chriſtmas-day*, and the Election was on St. *Thomas's-day* following.

BAD.

WE are now to proceed to the next Head of Objections with Reſpect to the farther Qualifications that are neceſſary; for, by Section the ſeventh of the Statute, we find, That, though one be a Houſholder of a Houſe of ten Pounds a Year Value, for twelve Kalendar Months, he is not yet qualified, unleſs, according to this Proviſo, "Such Houſholder, within the Space aforeſaid, ſhall have been rated and charged, and contributed and paid his Scot to all and ſingular the Rates and Taxes (except annual Aids granted by Parliament) whereunto the Citizens of *London*, inhabiting therein, are, or ſhall be liable; or ſhall have paid in the Whole to the ſaid Rates and Taxes, or ſome of them, thirty Shillings a Year at leaſt."

WE are firſt to obſerve that theſe Rates and Taxes, to which ſuch Houſholders are to contribute their Scot, are by the 9th Section enacted, "to be a Rate to the *Church*, to the *Poor*, to the *Scavenger*, to the *Orphans*, to the Rates in *Lieu of Watch and Ward*, and to ſuch *other* annual Rates, as the Citizens of *London ſhall hereafter be liable unto*:" But ſome of theſe enumerated Taxes, ſuch as the Orphans Tax, and

and thoſe in *Lieu of Watch and Ward*, have been laid aſide for ſome Years, and others not there ſpecified, ſuch as the *Lamp* and *Watch* Rates, have ſince been eſtabliſhed, and to which the Citizens of *London* are now liable.

As there are many different Kinds of Qualifications depending on this Clauſe of the Statute, ſo of Courſe it muſt give Occaſion to the greateſt Number of Objections; and herein appears the moſt remarkable Inſtance of that Variety of Conſtructions which I have more than once obſerved might be put on it's Senſe and Meaning; for, if we were to mind the *expreſs* Direction, it might be made a Queſtion, whether any Houſeholder could be intitled to Vote, who had not been rated and charged, and contributed and paid to *All* the Rates therein ſpecified, as well as thoſe the Citizens are *now* liable unto; but ſome of the *Rates* therein mentioned, as I juſt now ſaid, are not *now* exiſting; to which no one is rated, and to which no Citizen can be ſaid to be liable: Others, ſuch as the *Church Rate* and *Poor's Tax*, are ſometimes *occaſionally* laid aſide in many particular Pariſhes, as not being wanted, and to which there is no Neceſſity for their being charged: To object therefore againſt a Man, for not doing, or not procuring to be done, what is not in his Power to do, or procure to be done, is ſo unreaſonable, ſo contrary to *Juſtice*, and contrary to Common-Senſe, that

no one can preſume ſeriouſly to urge it, for ſuch a ſtrict Adherence to the Words would diſqualify every Man from Voting, and deſtroy the very Foundation of that Law, which was intended to regulate, and not take away, the Privilege of Election.

This ſtrict kind of Conſtruction has however it ſeems been admitted under one Conſideration, that is, although a Voter had been rated and paid all he was liable unto, yet, if his Payment did not amount to *thirty* Shillings in the Whole, he was then ſet aſide for not being rated to *All*, that is, for Example, for not being rated, amongſt the reſt, to the *Orphans* Tax; they, who have allowed this Objection heretofore, may perhaps have founded their Opinion upon the Suggeſtion of eſtimating the *thirty* Shillings, as the leaſt Proportion that ought to be paid by Way of Purchaſe for the Privilege of Voting; and therefore that all Advantages, even to a Strictneſs, ought to be taken againſt thoſe who contribute leſs than that Sum; and in this View they might think ſuch a literal Conſtruction ſeemed to concur even with the equitable Intent of the Statute; but it has ſince been adjudged, that ſuch a Determination is equally as unfair in this particular Conſideration, as in the more general Inſtance in which I firſt ſtated it; becauſe the only juſt *Medium is*, That, if a Perſon pay *leſs* than *thirty Shillings*, when he is really liable to pay more, he

he ought to be puniſhed for neglecting to be rated, or refuſing to pay, what was ſo his *Duty* and in *his Power* to perform; but to puniſh a Man who has paid, though *little*, yet *All* he was *liable unto*, or in his *Power*, merely becauſe he has not done *more* than was in his *Power*, cannot ſurely be any Rule either in Juſtice or common Equity.

Should any ſuch Objections therefore be made hereafter againſt one for not being charged to *every individual* Rate enumerated in the 9th Clauſe of the Statute, or for not being rated to the *Orphans* Tax, or even to the *Church* and *Poor*, if thoſe Rates are not levied in the Precinct or Pariſh wherein he lives; they ought to be rejected as inconſiſtent with that Reaſon and Equity by which only this Part of the Statute can be inforced; and thus we muſt neceſſarily give up the Strictneſs of the Reading, in order to come at ſuch a Meaning as may have ſome Effect, and allow the Qualification to be ſufficient, if ſuch Perſon be rated, and has paid to all the Rates which he and his Fellow-Citizens, Inhabitants of the ſame Precinct, are liable unto.

The next Queſtion then to be propoſed is, whether, if he be not ſo rated to all which at *that Time* he is *liable* unto, will ſuch an Omiſ-

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ſion deſtroy his Right, notwithſtanding he has *paid* all he is *rated to*, or *thirty* Shillings in the Whole to all, or ſome of them?

THIS in the firſt Inſtance may ſeem a proper Queſtion, for it may be argued, That as Section the 7th allows the Right of Voting only to Houſholders paying *Scot*, &c. und as Section the 9th is to be ſo far conſtrued, that they only ſhall be deemed to have paid *Scot* who have been *rated* or *charged*, and *contributed* or *paid* their *Scot* to *All* the Rates to which they are liable, or *thirty* Shillings a Year to *All* or *Some* of them: Theſe Words, taken in this Senſe, imply, that every one ought firſt to be *rated* to *All* the Taxes now in Being, and then in the next Place he muſt *pay* his Scot to *All*, that is, to as much as he is *charged* with; or at leaſt he muſt pay ſo much of his *Scot* to all or ſome of them as amounts to *thirty* Shillings; and from hence ſome would urge, that this Exception of *thirty* Shillings refers only to excuſe the *Non-payment* of the Scot to all, and that nothing can excuſe the *not being rated* to all: But, in Anſwer to this, the Method of Reaſoning, which, upon a general View of the Words ought rather to prevail, is to admit the qualifying Proviſo of paying *thirty* Shillings to extend as a Saving for not being *rated* to all, as well as for not having *paid* to all; for the *Words are conjunctive*, that he muſt be rated *and contribute* to all, or loſe his Vote, except,

which

which Exception muſt refer back to the Whole, he doth pay the Sum of thirty Shillings by Way of Satisfaction for not being ſo *rated*, or for not having ſo *contributed* to all, or ſome of the Taxes, to which he is liable: From hence therefore we are to eſtimate, that the Privilege of Voting at theſe Elections in a Ward depends on the Meaſure and Proportion of what one pays to the Duties that are required; and the *thirty* Shillings ſeems to be the Medium, which, at leaſt, is demanded of every one who is taxed to ſo much or more, and, if he ſatisfies to that Amount, he becomes ſo far a Purchaſer of the Right, and redeems all former Omiſſions and Neglects, for not being fully *rated* to *All*, or for the *Non-payment* of the *Whole*; but, if a Perſon, not being rated to the full, happens to pay *leſs* than the thirty Shillings, then indeed any ſuch particular Omiſſion will prove a fatal Objection.

It may therefore in general be determined, that he who has been *rated to* and *paid* all the Taxes to which he is liable is ſufficiently qualified, let his Payment amount to never ſo little; but if he has *not* been *rated* to all, though he has paid the Whole he is rated to; or if he has been rated to all, but *not paid* the *Whole*; in either Caſe it is neceſſary, that he ſhall have made Amends by the Payment of thirty Shillings for the Default.

As

All theſe Diſtinctions will I hope more plainly appear by ſtating a Caſe on each:

A——has not been rated to all which he is liable unto, but he has paid all he is rated unto, amounting to thirty Shillings for the Whole.

GOOD.

B——has been rated to all, but paid only to ſome, yet ſuch Payment amounts to thirty Shillings.

GOOD.

C——has not been rated to all, nor paid to ſome to the Amount of thirty Shillings.

BAD.

D——has been rated to all, but not paid all, nor to ſome to the Amount of thirty Shillings.

BAD.

E——has been rated to all, and paid all, but nevertheleſs the Whole doth not amount to thirty Shillings.

GOOD.

It is neceſſary now, upon this Point, to take more particular Notice of two Rates to which *the Citizens* have been made liable by ſubſequent Statutes,

Statutes, I mean, that for *enlightening the Streets of London*, by the 9th of *George* II. Chap. 20. and that for *regulating the Watch*, by the 10th of *George* II. Chap. 22. In both which there are *Diſabling* Clauſes [d], ſpecially directing, "That every Free-"man, being liable to the ſaid Rates and Aſſeſſ-"ments, and neglecting and refuſing, or deſiring "to be excuſed from, the *Payment* of the ſame, "ſhall be under the like Incapacity of Voting, at "Elections within the ſaid City, as any Perſons "are who do not pay their Scot and Lot to the "ſeveral other yearly Rates which the Citizens "of *London*, inhabiting therein, are liable unto." In the Clauſe relating to this Purpoſe in the laſt Statute for the Watch Rate, the Words *(the ſame being lawfully demanded)* are inſerted, but that Proviſo is omitted in the Lamp Act; however, it is not expreſſed in either, That the Incapacity of Voting ſhould proceed from *not being rated*, but only from the Neglect or Refuſal of *Payment*; for, although a Neglect or Refuſal may imply a Demand being previouſly made, and ſuch Demand could only be made in Conſequence of an Aſſeſſment, yet it cannot be inferred, from the Conſtruction of theſe Statutes taken by themſelves, that a Voter muſt at all Events be *rated* to both theſe Taxes; the Right of Voting there-

[d] SEE Clauſe 13. of the Lamp Act, and Clauſe 10. of the Watch Act, in the Appendix, No. XI.

fore

fore will ſtill depend upon the Conſtruction of the 11th of *George* I. reconciled to the Direction of theſe ſubſequent Acts of Parliament: And, by thus taking the Meaning and Intention of all the Statutes together, it ſeems requiſite, that, if a Perſon be *rated* to the Lamp and Watch, and the ſame be demanded, he muſt *pay* thoſe Taxes at all Events, ſo that, if he has paid *thirty* Shillings in the Whole to all the other Rates, yet the *Non-payment* to the full of *both* of theſe (if he be, I ſay, charged thereto, and the ſame be lawfully demanded) muſt be deemed a Diſqualification.

THE peculiar Circumſtance therefore, with Reſpect to the *Payment* of theſe two Rates, muſt be ſettled upon the following Terms:

A——has been taxed to the Lamp and Watch, and all other Rates to which he is liable, and has paid to ſome to the Amount of thirty Shillings or more but, nevertheleſs he hath not paid to the *full* he was ſo charged withal to the *Lamp* and *Watch*.

BAD.

B——is not rated to Lamp and Watch, but he has been rated and paid to the other Rates, or ſome of them, to the Amount of thirty Shillings.

GOOD.

As

As this Diſqualification ariſes from a Refuſal to pay, after being rated and a *Demand* made, it is neceſſary, that he, who makes the Demand, be ſufficiently authoriſed and impowered to collect; accordingly the Act of the 10th of his late Majeſty directs [e], that the Aſſeſſments for Payment of the *Watch* ſhall be collected quarterly by the Conſtables for each Precinct, or the Beadles of the Ward, as the *Aldermen and Common-Council-Men* of each Ward ſhall appoint [f]; and, in Caſe of the Death or Refuſal of the Perſon ſo appointed, they may direct any *other* Perſon in the Ward to collect in his Stead, and ſuch other Perſon is bound and impowered by Virtue of that Order to demand the ſame: But the *Lamp Act* directs [g], that the Collectors of that Duty ſhall be *elected* yearly at the Wardmotes, and no Proviſion is made, in Caſe ſuch Collectors ſhall *refuſe*, or ſhall happen to *die* in any Part of the Year, after being ſo choſen; and therefore a bare *Nomination* or *Appointment* of another in his Stead is not here ſufficient, nor can there be, according to the Strictneſs of the Words, a new Election of another at any Time, but on the Expiration of the Year, for which the former was choſen; and who are ſo to be choſen in each Ward, by the literal Conſtruction of this Clauſe, on St. *Thomas's-day* only, and therefore the Diſqualification, with

[e] Sect. 2. [f] Sect. 4. [g] Sect. 9.

Regard

Regard to the Non-payment of the *Lamp* Duty muſt be left on this Latitude, ſo as to ariſe only from the Refuſal to one *choſen* on *that Day* to collect the ſame; and from hence appears the Neceſſity of always chuſing two or more Perſons out of the ſix, who by the Directions of the Act are to be annually returned out of the Inhabitants of the Ward, to be the Lamp Collectors for the Year enſuing[h]; and who are reciprocally impowered to collect in *any* Diſtrict upon the Death or Neglect of another; for although they are returned and nominated to ſerve in *any* diſtinct *Precincts*, as before obſerved, with reſpect to the Election of *Common-Council-Men*; yet, this being done only for the Sake of Order and Regulation, they are in Fact properly *Ward* Officers, and their Duty is general.

Thus alſo, when an Objection is made for *refuſing* or *neglecting* to pay any of the other Rates whatſoever, it ought to be proved, that a *legal Demand* was made, and that alſo frequently repeated at a proper Time and Place; and that the ſame was always either abſolutely denied, or ſuch ſham Excuſes made as were clear Indications of a wilful Neglect; for it would be hard to urge the Objection againſt one for neglecting to pay at the firſt Call, if it can be proved that he only poſt-

[h] Sect. 9.

poned

poned it to a more convenient Opportunity, and the Non-payment was owing intirely to the Collector's Neglect of making another Demand.

And upon this Point it may be neceſſary to inquire, even when the Rate appears to be fully ſatisfied, whether the ſame was actually paid by *him* who was *charged thereto*; for if the Perſon himſelf that has been Rated ſhould have abſolutely refuſed or neglected to diſcharge his Duty therein, and the Rates ſhould be afterwards ſatisfied without any Knowledge of his own, but intirely at the Expence of a Stranger, juſt at the laſt Extremity, merely perhaps to ſerve the Turn of an Election; ſuch Payment by another ought not to excuſe his Neglect, nor remove the Deficiency objected againſt him on that Account; for, when the Qualification is not gained by *his own* Submiſſion to his Duty, he can have no Pretence to the Privilege that is annexed to it.

And therefore the Caſes, with regard to the *Neglect* or *Refuſal* of paying either to the Lamp, Watch, or any other Rate, muſt be ſtated and determined according to the *Right* of the Perſon who makes the Demand, and the *Duty* of him who is to anſwer it; for Example:

A——, being Rated to the Lamp, refuſed Payment, becauſe it was not demanded by one

who had been legally choſen a Collector on St. *Thomas's-day*.

GOOD.

B——, being Rated to the Watch, refuſed Payment, becauſe it was not demanded by a Beadle choſen at a Wardmote; but it was demanded by one who was appointed by the Alderman and his Common-Council-Men in Purſuance of the Power given for that Purpoſe by the Watch Act.

BAD.

C——, being Rated and *frequently* called upon, either refuſed, or made ſuch frivolous Excuſes as obliged the Collector to return him as one neglecting.

BAD.

D——, being once called upon, deſired the Collector to come again, at a fixed and more convenient Time; but the Collector never thought fit to make any other Demand.

GOOD.

E —— had refuſed or neglected to Pay his Rates, but a Stranger, unknown to him, ſatisfied the ſame upon the Expectation of a conteſted Election.

BAD.

It is not requiſite that he who is in Poſſeſſion of a Houſe, and Rated thereto, ſhould prove that he himſelf diſcharges on *his own Account* the Rates to which it is liable; for probably in ſome Inſtances the *Landlord* may agree to reimburſe him; and it is well known that the *Clerk* of a Company, living in the *Hall* of the *Company*, places the Charges of the Scot to the Account of his Maſters; notwithſtanding which, if *his Name* is ſet down as the Perſon on whom the Demand is to be made, he muſt be deemed as the immediate reſponſible Perſon, and, in Caſe of Neglect or Refuſal, the Aſſeſſment muſt be levied on *him* and *his Goods:* Conſequently therefore, he, who is liable to be puniſhed for any particular Diſobedience, ought to enjoy the Right that is annexed to the Compliance with the Demand.

The next material Doubt to be here ſettled, is, with reſpect to the *Times* in which the Rates and Payments ought to be made; and the Difficulty as to this Point is, that the firſt Part of the 10th Section makes it a Proviſo, "That ſuch Houſ-"holder within the Space aforeſaid ſhall have been "Rated and paid to all, or have paid Thirty "Shillings a Year for the Whole;" which Words, *within the Space aforeſaid*, that is, within the Year before, ought not ſtrictly to imply, that the Houſeholder muſt have been charged to ſuch Rates during *all* ſuch Time, but rather that it is ſufficient,

if he have paid the Whole, or Thirty Shillings at leaſt for the Whole of what the Houſe is charged withal, although he himſelf commenced being rated thereto only *within* ſuch Time; ſo that it is not requiſite for one to have been charged to every preceding quarterly or half-yearly Aſſeſſment; for it may happen in many Inſtances, that the Name of a Houſholder cannot be entered in the common Rate-Books until a half, or even a Year after he has become an Inhabitant; in which Caſe he muſt nevertheleſs be deemed a Purchaſer of his Qualification, if he has paid all or to the Amount of Thirty Shillings for the Whole, although he has been Rated never ſo little a while; becauſe the Privilege of a Vote is granted, firſt, for having *lived twelve Months* complete within the Ward, and, in the next Place, for having alſo, *during that Time*, contributed *his Scot* to the common Expence; for which Reaſon it is enough, if he at ſome Time or other, *within that Space*, has been Rated, or then paid ſo much as ſhall be deemed his *Scot*, that is, the Satisfaction due *for* the whole Year's Aſſeſſment: And therefore, ſince the Rate-Books are made out only at particular allotted Times, when the Names of the new Inhabitants are inſerted in the Room of the former Occupiers of the Houſes; and ſince for that Reaſon it may be impoſſible for a New-Comer to be ſet down immediately upon his firſt Entrance into Poſſeſſion; the Conſtruction of *this Part* of the Clauſe muſt be ſuited to the com-

mon

mon Practice and the Neceſſity of the Caſe, and be admitted in the following Manner:

A —— entered into Poſſeſſion of a Houſe, and commenced being an Inhabitant of the Ward twelve Months ago, and has paid, within that Time, all that the Houſe was liable unto, or at leaſt Thirty Shillings for the Whole; but he was not Rated or Charged until about ſix Months paſt, or is not as yet Rated by his own Name.

GOOD.

Every Inhabitant however ought to be careful, that he be charged in *due Time*, and to the *full* of what he is liable unto; for if he be *not* rated, or rated *too little*, that is, as a Tenant of a Houſe under Ten Pounds a Year, when he actually pays more Rent; he then has as good a Foundation for Appealing, as if he had been rated *too high*; nay, there is an expreſs Direction in the 13th Clauſe of the Statute for him to appeal to the Court of Aldermen, for any Breach or Neglect of Duty committed by any Officer relating to the Rates and Aſſeſſments; for it may happen, that the Name of a Perſon may be wrongfully charged, or accidentally omitted, and ſo ſubject his Right of Voting to be called in Queſtion; but in ſuch Caſe, if the Party ſhall prove, by ſufficient Witneſſes, that he hath been the Occupier of a

Houſe chargeable to that Duty, and thought himſelf rated thereto, and was always ready to pay all Demands that were made, then ſurely the Omiſſion in the Collector's Book ſhould not affect him, but he ought to be allowed to bring Evidence againſt it, to prove, that the Deficiency did not ariſe from his *own* Neglect or Refuſal.

THIS however muſt wholly depend upon the Nature of the Proof, and the Circumſtances of the Caſe; for, on the other Hand, if one be appriſed that he is not rated at all, or not to his full Proportion, and chuſes to take no Notice of it on Purpoſe to ſave the Payment, he, who would thus keep himſelf from bearing an equal Burthen with his Neighbours, ought to be deprived from enjoying an equal Privilege.

THUS alſo, with Regard to the *Payment* of the Rates, *within the Space aforeſaid*, it ought to be inquired, whether the *Scot* of the Perſon, ſo rated in due Time, was alſo *paid* within the due Time, that is, before the Election; for a ſubſequent Diſcharge of the Duties, after the Declaration made on View of Hands, though before the Poll or Scrutiny, will no more add a Qualification, than a Freedom of the City taken up after ſuch Election, as before explained in Page 75. To prevent therefore ſuch *after Payments* being clandeſtinely made, it will always be proper, ſo ſoon as the Election is declared,

declared, and a Poll demanded, and a Scrutiny likely to enſue, that the *Rate-Books* be all ordered into the Hands of the *preſiding Officer*, or ſome other indifferent Perſon, who ſhould be obliged not to ſuffer any Additions or Alterations to be made, and to which none but the Scrutineers on both Sides ſhould have Recourſe to ſettle their Objections thereby; and the Right of each Voter, with Reſpect to his being charged, or having paid his Rates, ſhould be determined by the Evidence of thoſe Books in the State and Condition they appeared immediately before the Election was firſt declared, with an Exception or Allowance, as I have juſt before ſaid, to thoſe who can by other Witneſſes prove the Diſcharge of their Duty, in Caſe it ſhould happen, through Negligence of the Collector, that their Names be not properly ſet down, nor their Payments recorded by a ſufficient Number of Marks uſually made to ſignify the ſame.

But here the 14th Section of the Statute may properly enough be connected to this, as it comes in by Way of Exception to it, and which provides, "That nothing from hence ſhall be conſtrued to "oblige Perſons to pay any Scot, or bear any Lot, "from the doing of which they were *exempted* by "Act of Parliament, Charter, or Writ of Privi-"lege:" All thoſe, therefore, who were exempted as above from ſerving their Lot to all Ward

Officers, and amongſt the reſt to that of *Watch* and *Ward*, preſumed formerly ſo far on that Pretence, as to inſiſt upon their not paying their Scot to the Rates which were made in *Lieu* of ſuch *perſonal Service*; but, ſince the Act of the 10th of his late Majeſty has diſcharged that former Tax, and impoſed a new one for the *Regulation of the Nightly Watch* within the City, they, and all others, even *Conſtables* who do the Duty, are rated, and muſt pay to the Charge of it, equally as to all other Taxes; for, if a Conſtable be rated, and does not pay, his *perſonal* Service can be no Excuſe, becauſe Keeping of Watch is now become a Duty over-and-bove the Paying for the Regulation of it.

It is cuſtomary indeed in ſome Wards not to charge ſuch a Perſon to that Rate, but the Word *Conſtable* is written oppoſite to his Name in the Collector's Book, in the Room of the Sum, to which he ought to be rated, in order to ſignify an Excuſe on the Account of the Merit of his *Serving* the Office: But even this, I doubt, cannot in Strictneſs be admitted as a Plea in Mitigation, or Excuſe of Non-payment; for every one is in general to be rated to all the Taxes which *his Fellow-Citizens* are liable unto, without any Exception to *this* or *that* Office: However, if a Conſtable's not being rated is owing to the Duty he is to perform, according to the Agreement and general

general Cuſtom of the Precinct, ſuch an Excuſe, as it takes off the Imputation of his own Neglect and Refuſal, may be admitted; but this is not to be extended ſo far as to admit the Rate on Account of one's being only nominally choſen, whilſt he hires another to do the Duty in his Stead; for the Excuſe cannot in Conſcience be allowed on any other Conſideration, than that of a real perſonal Service; the Objections therefore propoſed on this Head muſt be anſwered as follows:

A——was rated to the Watch, but refuſed to pay it, on Account that he had perſonally ſerved the Office of Conſtable for that Year; but it did not appear, that the Pariſh ever excuſed the Rate on that Account.

BAD.

B——was rated to the Watch, and refuſed for the ſame Reaſon as above, and proved, that it was the conſtant Cuſtom of his Precinct to admit of Service, in Lieu of Payment to that particular Rate.

GOOD.

then of his own Duty ought not to have the Right of Voting for another to perform it in his Room.

Upon theſe Conſiderations the Caſes upon this Point are to be determined as follows:

A——was elected Conſtable, and, by Way of Excuſe for declaring the perſonal Service, was admitted to fine.

GOOD.

B——was choſen Lamp Collector, and, though he did not abſolutely refuſe ever ſerving the Office, yet for the preſent deſired to be excuſed, and accordingly was upon his Promiſe to ſerve the ſame at another Time.

GOOD.

C——was elected Scavenger, which Duty he refuſed to comply with, and totally neglected.

BAD.

Here again, the 12th Section of the Statute muſt be taken into Conſideration, which provides, "That no Perſons ſhall bear any Lot from which "they are exempted by Act of Parliament, Char"ter, or Writ of Privilege:" This perhaps with Reſpect to *Bearing of Lot* was intended as a ſaving Clauſe

Clauſe to *Phyſicians* [1], *Apothecaries*, *Attorneys*, &c. who claim the Privilege of being excuſed from any Attendance upon the Ward Offices, by Reaſon of their other neceſſary Avocations.

HERE we may alſo take Notice of the Act of Common-Council, *Auguſt* 31, the 19th of *James* I, *Jones*, Mayor, by which it is provided, "That, if "ſuch Perſons as have been choſen Common-Coun-"cil-Men of the City ſhall alter their Habitations "from the Ward where they were ſo choſen to "another Ward, that then they ſhall not be "choſen in that ſecond Ward to the inferior Place "of Scavenger or Conſtable, nor be returned "by the Wardmote Inqueſt to be of the Grand "and Petty Juries, if there be other able and "ſufficient Men to ſupply thoſe Places and Ser-"vices."

So likewiſe the Act of Parliament of the 10th and 11th of *William* III. Chap. 23. diſcharges all Perſons from Pariſh and Ward Offices who have a *Certificate* of their having apprehended and convicted any one guilty of the *Felonies* therein deſcribed; which Certificate may be alſo once aſſigned over by them to any other Perſon: But it muſt be obſerved, That this muſt be a Certificate of convicting only *ſuch* Felons, "as by *Night*, or

[1] VIDE Statute the 6th of *William* III. Chap. 4. Sect. 3.

" by *Day*, privately ſteal Goods of the Value of " Five Shillings, out of any Shop, Warehouſe, " Coach-houſe, or Stable;" for the Statute mentions no other Species of Felony: And it further provides, " That ſuch Certificate ſhall be a Pri- " vilege only in *that Ward* wherein the Felony " was committed, and that, if the ſame be *once* " made Uſe of, it ſhall not then *afterwards* ex- " empt any other."

WHENEVER therefore, ſuch Privilege of Exemption is pleaded, it muſt be admitted ſo far as it ſhall prove to be within the plain Intent of the *Writ*, *Charter*, or *Act of Parliament*, on which it is grounded, according to the following Circumſtances:

A—— refuſed to ſerve as Conſtable, and, being now objected to, on that Account, pleads the Privilege, as he is a *Phyſician*, according to the Statute of the 5th of *Hen.* VIII. Cap. 6.

GOOD.

B—— refuſed to ſerve as Conſtable, being free of the Company of Apothecaries, according to the Statute of the 6th of *William* III. Cap. 4. Sect. 3.

GOOD.

C——refuſed to ſerve as Scavenger, and alledging that he has ſerved the Office of a Common-Council-Man for the Ward of F. of which he was formerly an Inhabitant.

GOOD.

D——having refuſed, &c. now urges, that he was Servant to a Company, and had Orders from his Superiors not to attend any other Duty or Ward-Office.

BAD.

E——pleads, by Way of Excuſe, for having refuſed to be Lamp Collector, that he then produced a Certificate, for the firſt Time, of the Conviction of a Felon, according to the Statute of the 10th and 11th of *William* III.

GOOD.

F——pleads the like Excuſe, but the Certificate is not for Convicting a Felon within that Ward—or it is for Convicting one of a different Species of Felony that what is deſcribed by the Statute; or it is one that had been before produced and excuſed another Perſon.

BAD.

&c.

It muſt be obſerved, laſtly, that there is this Difference between *Scot* and *Lot*, that Payment of *Scot* is a Duty laid on *the Houſe*, according to its Value; but Bearing of *Lot* is a Service perſonally due from the *Inhabitant*; in the firſt Inſtance there is, beſides the Diſability of Voting, a Diſtreſs on the Goods, eſpecially for Non-payment of the *Lamp*, *Watch*, and *Poor*'s Rate; but, he who refuſes, when elected, to take his Share of the common burthenſome Offices, ought more particularly to be excluded, on Account of its being unreaſonable, as I remarked before, that he ſhould Vote others into an Office which himſelf may have refuſed: For, upon the Whole, they only ought to be intitled to this great Privilege of their Society who have chearfully contributed their Proportion towards the good Order and Support of it, both in *Money* and *perſonal Service*.

I HAVE all this while only conſidered the Qualifications which a *ſole Occupier* of a Houſe ought to have, in order to maintain his Right of Voting at theſe Elections; but the 10th Sect. of the Statute, relating to *Partnerſhips*, has further Enacted, "That, in Caſe any two or more Partners carry "on a joint Trade in any ſuch Houſe together, "and ſhall have been Houſholders of ſuch Houſe "by ſuch Space of Time as aforeſaid, ſuch Part-"ners ſhall, upon paying their Scot in Manner "aforeſaid,

" aforeſaid, and bearing their reſpective proper " Lots if required, have Votes, &c. [k]."

THE Conſtruction upon this I apprehend to be, that it muſt appear, that *all* the Partners in a joint Trade have been *Houſholders* of the Houſe in which their Trade is carried on, each of them for twelve Kalendar Months next before; I have already defined a *Houſholder*, for this Purpoſe, to be one who is *Rated* and *Charged* as an Inhabitant of the Ward, by Reaſon of his *Poſſeſſion* and *Occupation* of a Houſe therein [l]; and upon this Foundation ſome have inſiſted that *each* Partner, in order to come under that Denomination, ought to ſhew, that he has been ſo long expreſsly ſet down, and within that Space of Time charged by his particular *Name*, or, at leaſt, under the Deſcription of *A. and Company*; for, though the Word *Company* means an unknown indeterminate Number, yet from thence it is allowed there is a ſufficient Intimation given to the other Inhabitants to find out of what Individuals it conſiſts, in order to Rate them in Proportion to their Number, and to nominate each of them to bear their reſpective proper *Lots*; but, if *A.* only is Rated in his ſingle Capacity, and *B.* and *C.* his Partners have induſtriouſly avoided having their Names inſerted un-

[k] SEE Appendix, No. VIII. [l] See Page 76.

Une-

der any Deſcription in the Collector's Books, it may be preſumed the ſame was done on Purpoſe to be ſkreened from being aſked to bear any Office; and, upon that Suppoſition, it has been argued, that they ought to be excluded from the Privilege of Voting, whatever private Agreement they may have made to ſatisfy him that is Rated, for taking the Whole upon himſelf: But, however, it has been held, that Partners, although not expreſsly *named*, nor even under the Deſignation of *Company*, may yet all be intitled to their reſpective Votes, if they can prove, that they all contributed jointly to the Rates and Rent of the Houſe, and have ſerved, or were willing to ſerve, their ſeveral *Lots*; for, if this be proved by ſufficient Evidence, it would be hard that any one of them ſhould be deprived of his Right from the Neglect of a proper Deſcription in the Collector's Books: This I ſay muſt be *proved*, and the Neceſſity of ſuch a Proof will appear in the next Place, inaſmuch as *Partners* are to pay *their* Scot, which muſt ſignify their joint Contribution to an Aſſeſſment that has been made, or was intended to be made, upon all and each of them.

The particular Objections, therefore, with regard to Partners not being *Houſholders* for twelve Months, muſt be determined upon the Evidence that ſhall then be given of the following particular Circumſtances:

A ——

A——is Partner with B. and although his Name is not inſerted in the Collector's Books, either at Length, or under the Deſcription of Company; yet he proves that he hath jointly paid the Rent of the Houſe for twelve Months paſt, and contributed towards the Rates, and has borne, or was and is willing to bear all Offices, when required.

GOOD.

B——is Partner with C. as to the Goods in the Shop, but, being willing to live retired, agrees, that C. only ſhall be the Inhabitant of the Houſe, and pay the Rent thereof, and be ſolely Rated thereto.

BAD.

C——is Partner with D. and although he now appears to be joinly Rated, &c. yet it is proved that he went into Partnerſhip, both as to the Trade and Rent of the Houſe, only ſix Months ago, and ſo hath not been an Houſholder for the whole Year.

BAD.

At the End of this Clauſe, there is ſtill a farther Condition annexed, "That *ſuch Houſe* "wherein ſuch Partners carry on their Trade "be of the true and real Value of as many re- "ſpective Sums of ten Pounds a Year, computed

"together,

"together, as there are Partners;" from whence an Inference may be drawn that, ſince the Houſe in which the *Partners* carry on their Trade ought to be of as *many* reſpective *ten* Pounds a Year as *there are Partners*, ſo likewiſe, if their Rates be not fully ſatisfied, there ought to be as *many thirty Shillings* a Year at leaſt paid as *there are Partners*; and this Inference ſeems to be reaſonably founded upon the Suppoſition, that ſuch Houſe in every other Reſpect, except in Name, ſhould be conſidered as *ſeveral* Houſes, and, if as ſuch, the Privilege of Voting is given to ſo many different Perſons, ought not they equally to bear ſuch Share of the public Burthens and Taxes as ſo many ſeveral Houſes would have been liable unto? for it is ſaid expreſsly in this Clauſe, "That they are to pay their Scot *in Manner-* "*aforeſaid*," that is, in the ſame Proportion as *ſole Occupiers* are to pay. Now it has already been obſerved, that no one Freeman is intitled to his ſingle Vote, whoſe Houſe is not of *ten Pounds* a Year Value, and who has not paid to ſome of the Rates, to the Amount at leaſt of *thirty Shillings*; ſo then in the ſame Light we ſhould conſider Partners, as ſubjected, *in Manner aforeſaid*, equally to thoſe Conditions, both that their Houſe ſhould be of as *many ten* Pounds a Year Value, and that they ſhould pay to ſome of the Taxes, at leaſt as *many* thirty Shillings as *there are Partners*; for in Parity of Reaſon, the Payment of

one

one Sum of thirty Shillings ought no more to intitle them to the Privilege of a Vote, than if their Houſe was only of the Value of one *ten* Pounds a Year.

However, I do not from hence pretend to imply, that every Partner ought ſo to pay the full of *ten* Pounds a Year to ſuch Rent, or thirty Shillings to ſuch Tax, as his own individual Share, towards the general Amount; but only that ſo much as makes the Whole ought to be paid out of their *joint* Stock; for the Proviſo in the Clauſe is no more than that the Houſe ſhall be of the yearly Value of as many *ten* Pounds *computed together* as there are Partners; therefore, if that Sum total be paid, no one has a Right to demand what Share each contributed towards it, ſince probably their Contributions might be in Proportion to the Intereſt each has in the Trade, a Circumſtance which they may chuſe to keep Secret; and the Statute ſeems intended to preclude any Perſons from making ſuch impertinent Inquiries, by thus charging the Tax *generally* and *indiſcriminately* amongſt them; whereas, on the other Hand, it Enacts, "That they ſhall *reſpectively* bear their "proper Lots," as a diſtinguiſhable Duty, relative to *each Perſon*; for the Neceſſity which I before urged, of all being Rated *by Name*, was not, that ſuch a Proportion of Tax might be demanded of *each* particular, but, in order that they

might

might be *particularly* called upon to *bear their Office*; ſo that a Payment by one may be a Payment for all, if all be Rated, and the Whole be paid; but the Service of one will not be a Service for another, ſince each muſt bear their reſpective and equal Proportions, in all the diſtinct Offices to which they may be ſeverally required.

THE Qualifications therefore of Partners, with reſpect to their *Payments* of the Rates, muſt be thus diſallowed, or admitted, according to the total Amount of ſuch Payment, whatever the Proportions may be which they ſeverally contribute.

A. and B——are Partners and have been Rated, *&c.* but not paid to all, nor twice *thirty Shillings* to ſome.

BAD.

C——is Partner with D. and although they have been Rated and paid twice thirty Shillings, *&c.* yet it is ſuggeſted that C. contributed no more than twenty Shillings thereof, as his reſpective Share.

GOOD.

BESIDES the *ſole Occupier* of a Houſe, or *Partners* being Houſholders thereof, there is another Diſtinction made by the 11th Section of the Statute; whereby

whereby it is further Provided, "That where *two* "Perſons and no more, not being Partners, ſhall "have, by the Space aforeſaid, ſeverally *inhabited* "in the ſame Houſe; ſuch *two* Perſons, ſeverally "paying their *Scots*, and bearing their reſpective "*Lots*, ſhall have Votes, &c. ſo as ſuch Houſe, "wherein ſuch *two* Perſons inhabit, be of the "yearly Value of *twenty Pounds*, and that each "of them pay the yearly Rent of *ten Pounds* for "his reſpective Part thereof [m]."

WHAT muſt firſt demand our Attention in reading this Clauſe, is, that it confines the Privilege of Voting to *two* Perſons only, ſeverally inhabiting in the ſame Houſe; for the frequent Repetition of that limited Number ſeems to be purpoſely made to avoid any Conſtruction by which the Privilege might be extended to more than *two* Perſons, not being Partners, inhabiting in *one* Houſe; and this is farther guarded againſt by declaring, that the Houſe in which ſuch *two* Perſons inhabit ſhould be of *twenty Pounds* a Year Value, each paying, that is, being reſponſible for the Payment of ten Pounds, as his reſpective Share thereto; but nothing can from hence be inferred, that a Houſe of *thirty Pounds* a Year ſhould give Votes to *three* Perſons and ſo on; and therefore, whenever it ſhall thus happen, that *three* Perſons

[m] See Appendix, No. IX.

or more, pretend each to have a Vote, by Reaſon of their being ſeparately Rated, *all* of them ought to be equally rejected; for, as it is impoſſible to know whom to exclude, ſo conſequently none of them ſhould be allowed; and it is probable that the Intention and View of thus limiting their Number was to prevent the Multiplying of Votes by a ſingle Houſe, allowing a Right to ſo many different Perſons; for, if this Privilege could be obtained by all Lodgers, or Inmates, the Houſes in a Ward might be very unequally Occupied, and ſome be left to ſtand empty, whilſt others would be too much crowded; which of Courſe would occaſion a Deficiency, at leaſt in the Aids demanded by Parliament. But as this Privilege is annexed only to a *ſole Occupier* of a Houſe; or to *Partners*, being Houſholders thereof; or to *two*, and *no more*, ſeverally inhabiting therein; it induces People, in order to obtain the common Privilege of the Society, to ſeparate and divide into different Habitations of their own, by which Means, all the Houſes are more likely to be taken up, and all the Rates and Taxes whatſoever more ſufficiently anſwered.

The next Obſervation we are to make on this Proviſo is, that it intitles ſuch two to Vote who have ſeverally *inhabited* the ſame Houſe, ſo as ſuch Houſe wherein they *inhabit* be of the yearly Value of twenty Pounds; ſuppoſing, therefore, there

there could be any Doubt who are to be deemed *Houſholders*, within the Meaning of the former Clauſes, yet here, the Term *Inhabiting* being mentioned, and that too repeated, there needs no Reaſoning, by Way of Implication, to prove them any more than Perſons Rated as *Inhabitants*; ſo that if one Rents the Warehouſe, and the other the upper Apartments, or if they divide the Houſe and Shop between them; to aſk which of them keeps Houſe, or whether both Diet or Lodge therein, are Queſtions which the Wording of this Clauſe will not admit of being debated; and this ſtrengthens and confirms what I before ſubmitted [n], that being *Rated* to a Houſe and *Occupying* the ſame were ſufficient to bring a Perſon under the Denomination of a *Houſholder*; which now plainly appears to be the Intent of this Statute; for, ſince by Sect. 7. none but *Houſholders* are to have a Right to Vote, and ſince by this Clauſe Perſons under the Name of *Inhabitants* are intitled, it muſt follow, that ſuch *Inhabitants* are to be conſtrued as *Houſholders*, and conſequently may claim the Privilege of Voting, if ſeverally *Rated* to the Houſe they ſo *inhabit*, as being in this Senſe each of them *Houſholders* of his reſpective Part thereof [o].

To this End it is further provided, that ſuch Inhabitants ſhall ſeverally pay their *Scots*, in the

[n] See Page 76. [o] See the Note on No. XII. of the Appendix.

Plural Number, different from the Caſe of *Partnerſhips*, where there is to be but one Demand made upon all, to which they muſt jointly contribute their *Scot*; but here *two* diſtinct Aſſeſſments are made; and both Inhabitants muſt pay to *all*, or at leaſt *thirty Shillings* a-piece to all that they are *ſeparately* Rated unto; and alſo muſt bear their *reſpective Lots*, in the Manner aforeſaid, that is, in the ſame Proportion as if they were *each* of them ſeparately Houſholders of diſtinct Houſes.

Upon the foregoing Conſtruction of the Words of this Clauſe, we may determine how far two ſeveral Inhabitants of a Houſe, and no more, are Qualified to Vote as Houſholders, and paying their reſpective Scots, according to the particular Inſtances here mentioned:

A. B. and C —— are all three ſeveral Inhabitants of a Houſe, every one paying ten Pounds a Year Rent; and are ſeparately Rated, and pay thirty Shillings a-piece as their reſpective Scots; ſo that, as each have an equal Right, and all cannot be allowed, it would be Injuſtice to exclude one and admit the other two; therefore all three muſt be deemed

BAD.

D. and

D. and E —— are two ſeveral Inhabitants of a Houſe, D. living in the upper Apartments, and E. hiring only the Shop to carry on his Trade, and Lodges and Diets at another Place; but they both ſeparately pay ten Pounds a Year for Rent, and are ſeparately Rated, and anſwer their reſpective Scots and Lots.

GOOD.

F —— is an Inhabitant with G. and the Houſe is charged with twenty Pounds a Year Rent, and twice thirty Shillings in Taxes; but F. pays only one Third thereof, as his Propotion.

BAD.

G ——, the other Inhabitant, pays two Thirds of the above Rent of Twenty Pounds, and the ſame Proportion to the Taxes.

GOOD.

I HAVE before obſerved, that we ought to conſider both *Payment of the Rates* and *Serving of Offices* as the principal Duties which intitle every Inhabitant to the Privilege of Voting; and for this Reaſon the latter Part of the 14th and laſt Section, relating to Elections in general within the City, has declared, "That the Vote of every

"Perſon ſhall be void who has, at any Time "within two Years next before the Election, re- "queſted to be and accordingly has been diſ- "charged from paying all or any of the Rates "and Taxes which the Citizens of *London* inha- "biting therein are liable unto P."

In mentioning how far and againſt whom this Objection might be urged at the Elections by the *Common-Halls*, I was obliged to diſtinguiſh that, according to the Words of the Clauſe, it could not be extended to thoſe who live out of the Juriſdiction of the City, but is confined to the Citizens of *London* inhabiting *therein*; conſequently then it muſt generally affect all who Vote at theſe Elections for the Coice of Officers within the reſpective Wards of the City, ſince none can Vote at ſuch Elections but thoſe who are Inhabitants *therein*; and here the Objection ſeems to be founded on very good Reaſons; for he who has been diſcharged, at his own Requeſt, from the common Rates impoſed upon his Neighbours, ought ſurely to forfeit the common Privilege that is annexed to the Payment of them.

But this Diſqualification muſt be firſt underſtood to ariſe from the being diſcharged from the

P See Appendix, No. X.

total

total Payment of all, or the *total* Payment of any one Tax; the Objection, therefore, doth not reach thoſe who may by Chance inſiſt upon being remitted a *Part* of a Rate, as being overcharged beyond their Proportion, and on which Account they may reſerve to themſelves the Right of Appealing.

In the next Place, even as to thoſe who have been returned as excuſed and diſcharged from the full Payment of any Rate, it ought to be proved, that they perſonally requeſted the being diſcharged therefrom, and were accordingly excuſed in Purſuance of their *own* Petition; becauſe, as I before obſerved, an Omiſſion to ſet one down to any particular Rate, without any Application of his own, ought not to be ſo adjudged as to deprive him of his Right, when he has done his Duty in every other Reſpect, where he was properly appriſed; and therefore, in this Caſe, it would be an unjuſtifiable Treatment to forbear Rating a Perſon to ſome particular Tax, without his Knowledge or Deſire, and then to return his Name as deficient from a mere Surmiſe of his Inability to pay.

Lastly, when the Objection is rightly made out againſt ſuch a one from being diſcharged from the total Payment of a Rate upon his own Requeſt, it muſt appear, that he was ſo diſcharged, at ſome Time within *two Years* next before the

Election. And the Words of this Clauſe ſeem expreſſly to declare, that the Vote of every Perſon is void for having been at *any* Time within two Years before diſcharged, although he may *afterwards* have been rated, and paid to all the ſubſequent Aſſeſſments; and the Reaſon of this I apprehend is, becauſe ſuch after Submiſſion cannot heal the former Deficiency, which, when the half-yearly or quarterly Accounts were made up, being then returned by the Collectors as deficient, muſt remain by the Evidence of that Return, as a Mark of his Refuſal to ſatisfy his Duty at *that Time*; for which, as he cannot make any after Recompence, his Vote, by Way of Puniſhment, ought *now* to be diſallowed.

The Objections upon this Head therefore muſt be diſtinguiſhed, as they ſhall appear under the following Circumſtances:

A —— has within two Years requeſted to be diſcharged from one or two particular Rates, and was accordingly excuſed; but he was rated and paid to the reſt.

B A D.

B ——, thinking himſelf overcharged in ſeveral Particulars, tendered Part of the Payment to each, and reſerved what he thought was beyond his Proportion to be determined upon an Appeal.

G O O D.

C ——

C—— the Year before laſt requeſted to be, and was accordingly diſcharged from ſome of the Rates; but this Year, in which the Election happens, he has been again rated, and paid his latter Aſſeſſment.

BAD.

D—— was omitted to be charged to a particular Rate, but it was without his own Knowledge or Requeſt.

GOOD.

We are now laſtly to conſider of the Determinations to be made upon that cruel Circumſtance of one's being objected to, "For having had and received, within the Space of two "Years next before the Election, any Alms "whatſoever[q];" and here Charity itſelf muſt teach us to judge with all the Lenity and Indulgence due to the Character of a Fellow-Citizen and Neighbour, who, although he be the Houſholder of a Houſe of *Ten* Pounds a Year, and has diſcharged all his Rates, and borne his Lot, and performed his Duty in every Reſpect, yet, as an Exception to the general Rule I have ſo often laid down, is now to be demeaned by this one only Objection of *having received Alms*;

[q] See Appendix, No. X.

an Imputation ſo low, as to put him upon the Level with the Common Poor of the Pariſh, whom he by his own Contributions has before helped to ſupport.

As this is an Objection to be offered at *all* Elections within the City of *London*, I ſhall once for all mention the ſeveral Diſtinctions neceſſary to be taken Notice of; having before referred to the Obſervations I am now to make, as equally neceſſary to be conſidered upon a Scrutiny at a *Common-Hall*, as upon theſe and all other Scrutinies at Wardmote Elections.

Persons liable to be objected againſt by this diſabling Clauſe, however ſufficiently qualified they may be in every other Reſpect, are ſuch who have aſked and received any Sums of Money, as Charities from private Perſons, or any public Collection; or from any charitable Legacies or Bequeſts; or the Share of any Forfeiture by a penal Act of Parliament to the Uſe of the Poor; or Part of the King's annual Bounty Money, or of the Ward Charity Coals diſtributed within the City. — Such who have been in any Hoſpital, or Infirmary, for the Relief of the Sick or Lame; or received Phyſic or Advice from thence *gratis*, as Out-patients; or have been in the *London* or any Pariſh Workhouſe. — Such alſo as have been confined in any Priſon, and received

Part

Part of the Allowance of Bread and Beer, or of the Box-Money; or Bequeſts to Priſoners; or have been releaſed by the Charity of ſome other Perſon. — All theſe, I ſay, are liable to be diſqualified at any Election within the City of *London*, upon Proof that they actually *aſked* for, or ſubmitted to *take*, and were *relieved* by one or other of the above-mentioned Species of *Charity*; ſome of which are indeed of a very low Nature, and therefore it ſeems to be the Intent of this Part of the Statute, That Perſons ſo reduced from their former Rank ſhould alſo forfeit their former Right of jointly enjoying thoſe Privileges which belong to Citizens of a higher Station and more ſufficient Abilities.

So general a diſqualifying Clauſe may perhaps in many Inſtances occaſion a great Drawback upon Charity, as it muſt reſtrain the Inclination of the Giver, as well as cauſe a Reluctance in thoſe who want Relief, ſince, by their Acceptance of never ſo ſmall a Trifle, they at once ſell all the Privileges which were purchaſed by their former Services; and thus the very End of the Charity is perverted, and the Benefit intended proves in the Conſequence an Act of Diſkindneſs: It may beſides occaſion a great Miſapplication of the public Charities; for it is poſſible, that a Diſtribution may at

ſome Times be made, with a View rather to diſqualify a Perſon from his Vote, than to relieve his Want; not that I preſume to ſay this ever has, or will be done; but I only ſuppoſe a Poſſibility from hence, that ſome deſigning People may be indirectly tempted to relieve their *Enemies* through Spite, and pay ſuch a Regard to their *Friends*, as to overlook their Neceſſities.

From theſe Conſiderations we ought carefully to make a Variety of Diſtinctions neceſſary to be obſerved upon all theſe various Kinds of Charity, both with Regard to the Perſons who *give*, or who *receive* them; and alſo to the *Motives* on which they are beſtowed, or the *Terms* upon which they are accepted.

And, firſt, this Objection ought only to be urged againſt a Perſon for having himſelf *perſonally* received any ſuch Alms as aforeſaid, and not becauſe his Wife might have received ſome Donation, or that his Servant was admitted as a Patient in an Infirmary, or his Children educated at Chriſt's Hoſpital, or any other Charity School; for at this Rate the Objection may be extended againſt any the moſt eminent Citizen, who nevertheleſs may have a Son admitted upon the Foundation of a public School, or who receives the Profit of a Fellowſhip, or

off

of an Exhibition in either of the Univerſities; ſo that, to prevent all ſuch Surmiſes from being carried to too great a Length, it will be beſt to diſallow every Objection of this Sort that may be made on Account of ſuch collateral Benefit received by the reſt of the Family, ſince the very Words of the Act, which here ought to be taken ſtrictly, go no farther than diſqualifying thoſe who have actually *themſelves*, within the Space aforeſaid, had and received Alms.

When this Objection is thus perſonally urged againſt a Voter, the next Inquiry muſt be upon what *Motives* the Benefaction was beſtowed, and upon what *Terms* it was accepted; for a Preſent from a Relation or Friend out of Love and Affection, or a Donation to an induſtrious Perſon by Way of Reward, plainly ariſe from Motives different from that of mere Charity; and, on the other Hand, a free Gift or Act of Benevolence may be accepted by one, who would be above taking it under that Name of *Charity*, or by Way of *Alms*, which is a Term of a yet lower Signification. The Point therefore to be proved is, that the Perſon, charged with having taken the *Alms*, knew that they were given to him *as ſuch*, according to the general Definition of *Charity*, which is deſcribed as a Gift beſtowed upon the mere Impulſe of Pity

and Commiſeration, and conſequently, that the Object, to whom it is offered, takes it merely as a *Relief* to his Want and Neceſſity; but, when other Conſiderations are alledged, as that of *Gratuity*, or *Reward*, or *Perquiſite* for ſome previous Service, they ought to be duly weighed by Way of Abatement to the general Imputation, in order to ſave the Right of any one who ſhall appear to be in a Station above the Acceptance of any Gift through mere Charity, though the Bounty itſelf may have originally aroſe from a charitable Foundation.

THUS, ſuppoſe the annual Income of an Eſtate is left to ſome particular Company or Myſtery within the City, Part thereof to be expended at different Seaſons in entertaining the principal Members when they meet to ſettle their Accounts, and commemorate their Benefactors; and Part to be diſtributed in Money amongſt the poorer decayed Brethren of the ſame Community; in ſuch Caſe, the Partaking of the Entertainment ought not to be conſtrued as the Taking of Charity, but the Acceptance of the Diſtribution Money moſt certainly is ſo.

IN like Manner, it muſt always be diſtinguiſhed according to the Intention of the Donor, where the Thing beſtowed may be deemed as a *Perquiſite*; for Example, it is cuſtomary in many

Parts

Parts of the City to allow a particular Share of the King's Annual *Bounty-Money*, and a Quantity of their *Ward Coals* free of Duty to their Beadles; and, in ſome Pariſhes, even to diſtribute a Portion of their *Sacrament Money* to their Clerks, not as *Alms*, but as Part, and in Augmentation of their ordinary Stipend, and for their perſonal Attendance; and, although this may be deemed a Miſapplication of Charity, yet it has been allowed, that, if thoſe Perſons take the ſame by Cuſtom in Conſideration of their *Office* and *Duty*, and the Contributors know they do ſo, and conſent thereto, it ought not to be adjudged, either as the Giving or Taking of Charity: But, on the other Hand, if ſuch Pariſh or Precinct Officers receive any Allowance ariſing from the Bequeſt of a *private* Perſon, although they may alledge, that the ſame is alſo a Cuſtomary Diſtribution to them in reſpect of their Office, yet that muſt be conſidered as the Receiving of *Alms*; for, in the former Inſtance, their Claim and Title of taking it as a Perquiſite is ſuppoſed to be admitted and conſented to by the *Donors*; but here the Intent of the Teſtator cannot be known, but by the Words of the Will, and, if he has therein expreſſly bequeathed it as a *Charity*, it cannot be given away under any *other* Denomination.

The ſame Determination muſt be made on every Benefit alledged to be obtained under

any

any Will, which *called* and *beſtowed* it as a *Charity*; and therefore, if under that Name a Sum of Money be left to the Truſtees to ſet up Apprentices juſt out of their Time, or to lend it for a Number of Years to poor Tradeſmen without Intereſt (for there are ſuch Kind of Charities now ſubſiſting in *London*) they who have received any Share thereof muſt be adjudged to have *taken it* on the *Terms* upon which it was *beſtowed*.

So alſo he, that accepts of any Forfeiture deſtined by a Penal Act of Parliament to the Uſe of the *Poor*, acknowledges himſelf to be a Perſon deſigned by the Law to be ſo *relieved*, even although the Forfeiture was made by himſelf, and he only receives back the very Money he paid; for, having at firſt ſo forfeited his Property therein, he now becomes intitled to it again, no otherwiſe than as an *Object* of *Charity* within the Pariſh; and thus in all Caſes in general of public or private Donations, or Charitable Legacies or Bequeſts, which are beſtowed as Eleemoſynary Gifts upon no other Conſideration than that of *Pity* and by Way of *Relief*; and which are named to be *Charities*, and applied for *as ſuch*; he who takes them receives them upon the Terms they were given, and muſt come under the Diſability as one *receiving of Alms*.

SINCE

SINCE I have made a great many Diſtinctions neceſſary to be conſidered on this Point, I am obliged to add a great Number of Determinations that have been, or ought to be made on each particular Caſe; wherein let it be obſerved all along, that whatever is alledged, upon each Objection, muſt have happened within two Years next before the Election.

A —— applied for and received Part of a Sum of Money publicly collected for the Uſe of the Poor.

B A D.

B —— petitioned for and received Part of a Charity left by a Will.

B A D.

C —— was admitted a Patient in St. *Bartholomew*'s Hoſpital, or received Phyſic from thence *gratis*, as an Out-patient.

B A D.

D —— being abſent from Home, his Wife, unknown to him, received Part of a Charitable Diſtribution.

G O O D.

E——

E——, by his Application and Intereſt, got an Apprentice or a Servant into St. *Thomas*'s Hoſpital.

GOOD.

F—— has a Son maintained and educated at a Charity School, or at Chriſt's Hoſpital.

GOOD.

G—— has been in the *London* Workhouſe, or in Priſon, and there received the Daily or Weekly Allowance.

BAD.

H—— often receives Preſents from a Friend and Relation, both in Money and other Neceſſaries, which are ſent only as Tokens of Affection and Friendſhip.

GOOD.

I——, being a Member of a Company, accepts Part of a Legacy or Benefaction annually diſtributed by Way of Charity amongſt the poorer Brethren of that Community.

BAD.

K——, being a Pariſh Clerk, receives, according to Cuſtom, Part of the Sacrament Money every Month, by the Knowledge and Conſent of the Pariſhioners.

GOOD.

L——,

L——, being a Beadle, received Part of the Ward Coals, which it is cuſtomary to give him by Way of Gratuity for aſſiſting at the Diſtribution to others.

GOOD.

M——, being a Beadle, and aſſiſting at the Diſtribution of ſome Legacies, left by Way of Charity to poor Houſkeepers, aſked for and received Part of the ſame himſelf.

BAD.

N—— had a Loan of a Sum of Money left by Will to be lent to poor Tradeſmen without Intereſt.

BAD.

O—— applied for and received Part of a Sum of Money forfeited to the Uſe of the Poor.

BAD.

P—— received a Sum ſo forfeited to the Poor, but it was what he himſelf had forfeited, and paid upon an Information againſt himſelf.

BAD.

It muſt have been obſerved all this While, that the firſt Part of the Statute of the 11th of *George* I, with Regard to Wardmotes, relates only to the Elections of *Alderman* and *Common-Council-Men*, and although it is thereby in general enacted, that the Right of electing an *Alderman* ſhall appertain only to Freemen Houſholders in their ſeveral *reſpective Wards*, yet here by Way of Exception we muſt take Notice of the particular Manner of ſupplying the Vacancy in the Ward of *Bridge without*, which is uſually filled by the Removal of the ſenior Alderman paſſed the Chair, ſtiled the *Father of the City*, without any Election by the *Inhabitants*, according to an *Act* of Common-Council of *September* 20, 1711, Sir *Gilbert Heathcote*, Mayor; and whereby it is further provided, "That, in Caſe "of his Refuſal to remove, then the next ſenior "Alderman, and ſo ſucceſſively every other "Alderman according to Seniority who hath "borne the Office of Mayor, ſhall and may, if "he thinks fit, remove to, accept and take, the "ſaid Ward; in which Caſe the Inhabitants "of the Ward from whence ſuch Alderman does "ſo remove ſhall be ſummoned, within four "Days, for the Election of another to ſupply "that Vacancy in their Ward; but, if none of "the Aldermen who have borne the Office of "Mayor will remove to, and accept the ſaid "Ward, then the Lord Mayor, for the Time "being,

" being, ſhall, within fourteen Days after, cauſe " a *Common-Council* to be ſummoned, at which " the Lord Mayor, Aldermen, and Commons " then aſſembled, ſhall, by Plurality of Voices, " forthwith elect and chuſe one fit and able " Perſon, being a Freeman of the City, to be " an Alderman of the ſaid Ward." And, ſubſequent to this, there has been another explanatory *Act* of Common-Council, paſſed *May* 12, 1725, Sir *George Mertins*, Mayor, whereby the particular Time is prefixed in which each Alderman, ſo impowered to remove, ſhall declare reſpectively his Conſent or Refuſal ſo to do, that thereupon, if none of them will accept of that Ward, the *Common-Council* may, in due Time, exerciſe *their* Right of *electing* a new Alderman to ſerve therein.

Since the Statute of the late King for regulating the Elections of Aldermen and Common-Council-Men makes no particular Mention of the Right of Voting in the Choice of *Conſtables*, *Lamp-Collectors*, *Scavengers*, *Beadles*, and *Inqueſt Men*, we muſt refer back to the ancient Uſage and By-Laws of the City, which have preſerved the Choice amongſt the *Houſholders* in general, without reſpect to their being *Freemen*; but nevertheleſs theſe Officers are to be choſen at the annual Wardmotes held on St. *Thomas's-day*, or at any other Wardmote

that

that may be occaſionally ſummoned to ſupply ſuch Vacancies as may happen within the Year by Death or Removal.

As the Right of voting at the Choice of theſe Officers is not confined to the Freemen Inhabitants, ſo neither is ſuch Qualification neceſſary towards being elected and ſerving the ſame, but every Houſholder, who is rated to his Scot, is liable here to bear the Lot, when thus required; excepting that, by an Order of the Court of Aldermen dated *November* 30, 1736, Sir *John Thompſon*, Mayor, there is a Caution given to the Inhabitants not to chuſe any Victualler or Alehouſe-keeper into the Office of Conſtable.

In order that there may be ſome Rule of knowing and aſcertaining who have a Title to vote at theſe Elections, where the Right is left ſo much at large, it is directed by an *Act of* Common-Council, *October* 26, 1692, Sir *Thomas Stampe*, Mayor, "That the Beadles of the reſpective "Wards ſhall prepare and deliver to the Alder-"man, or Perſon deputed by him at ſuch Ward-"mote, a Liſt of all the Freemen Houſholders "dwelling and reſiding in the ſaid Ward apart "and by themſelves; and alſo a Liſt of the "*other* Houſholders within the ſaid Ward apart "and by themſelves, to the Intent that ſuch

"Freemen

" Freemen Houſholders may elect the Aldermen " and Common-Council-Men, and They together " with the *other* Houſholders may chuſe their " *Conſtables*, *Scavengers*, *Inqueſts*, and *Beadles*."

It cannot be ſuppoſed, that any will offer themſelves Candidates for ſuch of theſe Offices as are merely of Burthen, and therefore, upon this Suppoſition, a Proviſion is made in the Statute of *George* I. that whoever refuſes, that is, without pleading any Privilege by Way of Excuſe, as I obſerved before, to ſerve his Lot to any of thoſe Offices after Nomination and Election, ſhall be liable to the Diſability and Forfeiture of his Vote at all future Elections.

However, as the Place of a *Beadle* of a Ward or particular Precinct is of ſome Profit, for which it is uſual for great Numbers of honeſt decayed Houſe-keepers to petition upon every Vacancy, it will be proper juſt to propoſe ſuch Rules as may tend to the moſt quiet, cheap, and expeditious Manner of determining any Conteſt that may ariſe upon a diſputed Election for that particular Office; and to this Purpoſe the Inhabitants ought firſt of all to be appriſed of an old Act of Common-Council of *October* 10, 1663, *Robinſon*, Mayor, which ſhould always be read at the Wardmote upon Proceeding to the Choice of *Beadles*; whereby, in order to prevent too great Confuſion by a Multitude of

Candidates

Candidates, it is ordained and eſtabliſhed, "That "the Alderman of each Ward, with the Conſent "of his Deputy and Common-Council-Men, or "the Major Part of them, ſhall, at the accuſtom-"ed Time of Election, nominate unto the In-"habitants of the ſaid Ward two honeſt, ſuffi-"cient, and diſcreet Perſons for the Place of "Beadle, &c. and that the ſaid Inhabitants ſhall "chuſe one of the ſaid two Perſons ſo nominated, "who being ſo elected ſhall fully hold, enjoy, and "exerciſe the ſaid Office."

If therefore a Poll ſhould be demanded upon a diſputed Election between two ſo nominated, the *Time* for finiſhing the ſame muſt be left to the Diſcretion of the Preſiding Officer, whoſe Duty it is to proceed therein from Day to Day, until it be concluded, without any long or unneceſſary Adjournments, and to cloſe and finiſh it at ſuch fixed Time as ſhall be agreed upon by the contending Parties, with his Approbation: And, ſince the Qualifications neceſſary to intitle the Inhabitants to Vote are left unlimited, as to their being free of the City, every one muſt be admitted to Poll under the general Title of a *Houſholder* within the Ward, according to the Definition of a Houſholder before laid down [r], in Conſequence whereof, he muſt be an Inhabitant of a Houſe

[r] See Page 76.

rateable

rateable and charged thereto by *Name*, or at leaſt liable to pay his *Scot*, and bear his Lot, though there is no Neceſſity that he ſhould prove the actual Performance of either of thoſe Duties, as required upon the Election of Aldermen and Common-Council-Men; nor is it requiſite here, that he muſt have been ſuch Houſholder for any particular Length of Time; for, although he may not have lived ſo long a While within the Ward, as to be charged to any Rates already due, yet it will be ſufficient if he appears as one who will be liable for the future.—And, as no *Oath* is directed to be adminiſtered to thoſe who ſhall offer to *Poll*, nothing more can be required of them, than their Name and Place of Abode, and an Aſſurance that they have not polled before. But, in order to avoid the taking down the Names of ſuch Perſons as are not properly Houſholders of the Place they may pretend to live in, it will be a good Check to have the *Rate-Books* of the ſeveral Pariſhes ready at the Wardmote, to which it may be referred, whether the Name of any ſuch ſuſpected Perſon be *rated* therein; for, if it be not, his Poll ought to be denied, unleſs he produces ſome other Voucher, that he lives in a *Rateable Houſe*, though not charged expreſsly by his own *Name*.

Such previous Examination may be neceſſary, even upon the Poll, on Purpoſe, if poſſible, to prevent any Pretence for demanding a SCRUTINY;

TINY; but, if a *Scrutiny* be demanded, and it is thought reaſonable to grant the ſame, it muſt be proceeded upon in ſuch Time and Method as the Alderman or his Deputy ſhall direct, requiring, at the ſame Time, for his own Juſtification, the Conſent and Agreement of the ſeveral contending Parties; for there is no Act of Parliament, nor *By-law* of the City, directing how to proceed therein; and I fear it would be too expenſive for the Candidates to ſuch an Office to purſue the like Meaſures as are to be taken upon Scrutinies for Common-Council-Men.

THAT the Alderman therefore may direct theſe Proceedings in the cheapeſt and moſt expeditious Manner, he ſhould firſt adjourn the Wardmote for a few Days, in order to deliver out Copies of the Poll to both the Candidates, and then, all Parties being met again in Purſuance of the Adjournment, it may be agreed, that the *Poll-Books*, together with all the *Pariſh Rate-Books*, be laid together for the Examination and Inſpection of a Number of Scrutineers to be appointed for each Candidate; and that, in going over the Names of thoſe who have polled, every Perſon be allowed in the firſt Inſtance to be properly qualified, "who is an *Houſholder* of a Houſe *rateable* with-"in the Ward, and who in Purſuance thereof is "actually charged by *Name* to the Watch or "Poor, or all or ſome other of the Rates in the "Books

" Books of the Pariſh, in which he has polled as " an Inhabitant, or who can prove by other Evi- " dence, that he is *liable* to the Payment of ſuch " Rates, though not charged by Name."

ACTUAL Payment, as I before obſerved, is not neceſſary, not even to the *Lamp* and *Watch* Rates, though charged thereto; for the diſabling Clauſes of the two Acts of Parliament, relating to thoſe Rates, if conſtrued ſtrictly, as they ought to be, refer only to thoſe who Vote at the Elections of *Aldermen* and *Common-Council-Men*; but yet the Vote of ſuch Houſholders may be rendered void, even at this Election, if they have within two Years before been *diſcharged, at their own Requeſt, from any Rates, to which*, as Citizens of *London*, and inhabiting therein, they ought to be *liable*; or, if they have within that Time *received any Alms whatſoever*; for the 14th Section of the 11th of *George* I. in general directs, " That ſuch Per- " ſons ſhall be diſqualified at all Elections of any " Officers to be choſen in and for the ſaid City, " or any of the *Wards* or *Precincts* thereof;" accordingly the Determinations to be made on ſuch a Scrutiny will be confined only to the three following Objections:—Firſt, for not being a *Houſholder*, &c.—or, in the next Place, for having requeſted to be *diſcharged* from the *Payment of Taxes*, &c.—or, laſtly, for having *received Alms*, &c. I muſt

refer, therefore, to the Obſervations I have before made upon each of theſe Circumſtances; for it is needleſs here to add any more Remarks, where there is ſo little Likelihood that ſuch a Conteſt will be made, or, if ſuch Conteſt ſhould enſue, where the Rules for deciding it lie in ſo narrow a Compaſs.

THERE may be many other Circumſtances, which have heretofore, and may hereafter happen, that are not compriſed in the above Obſervations; the Determinations of which are, in general, to be governed by this equitable Rule and Principle, that he who has *paid all that* he is *liable unto*; borne all *Offices required* of him; and never *knowingly* omitted any Duty; nor *wilfully* committed any Default; is intitled to a VOTE by Way of *Recompence* for the Share he has thereby contributed to the Support and good Order of the *Community* in general.

AND now I muſt beg Leave to mention ſome *ſubſequent Proceedings* which are neceſſary to be attended to, after the Elections are over, both at the *Common-Halls* and *Wardmotes*.

AND, firſt, it may not be improper juſt here to take Notice, that, if an Oppoſition ſhould be ſo *equally* carried on, as that the Preſiding Officer ſhould

ſhould not be able to decide it in the firſt Inſtance upon the *View of Hands*, both Parties ought immediately to proceed to a *Poll*; or, ſhould the Numbers be *equal* on a Poll, there muſt be a Neceſſity of entering upon a *Scrutiny*, to diſcover who may have the Majority of *legal* Votes; or, laſtly, if a Preſiding Officer ſhould declare the Numbers to be *even* upon a Scrutiny, all Proceedings muſt be renewed in order to come at a Choice, according to the Intent of the original Summons; for, as *even* Numbers for two is no *Election* of either, the Voters do not anſwer the Direction of the Precept or Summons by which they were convened, until they have made an *Election* by a *Majority* for one Side or the other.

After a *Scrutiny* has been taken, and a *Declaration* made, the 5th Clauſe of the Statute of the 11th of *George* I. enacts, "That the Preſiding "Officer or Officers ſhall deliver a true Liſt of the "Voters diſallowed by him or them upon ſuch "Scrutiny, to any of the Candidates who ſhall "then demand it within ſix Days after the De"mand."

Now, this muſt mean a Liſt of the Voters diſallowed on *both Sides*, and ſo the Order is more expreſſly wordedby the *Act of Common-Council*, *December* the 6th, 1712, Sir *Richard Hoare*, Mayor, from

whence this Clauſe, and indeed the Plan of the reſt of the Statute, relating to the Time and Method of Elections, was taken and formed; for it is equally an Offence to allow ſuch Votes to be *Good* which were proved to be *Bad*, as it is to deem ſuch to be *Bad* which were proved to be *Good*; but how can a Candidate be informed what Votes are allowed *Good* on the oppoſite Side, but by having a Liſt of all that were diſallowed? This Liſt, however, is not to be admitted as Evidence againſt the Preſiding Officer upon an Information for the Penalty of this Statute, on any Election whatſoever.

If any Citizen ſhall *refuſe*, after Election, to execute the Office he is choſen into, there are ſeveral Methods preſcribed, both by *Acts of Parliament* and the *By-laws* and *Cuſtoms* of the City, according to the Nature and Importance of the Duty, either to inforce his Obedience, or puniſh his Neglect: And Penalties are fixed not only for refuſing to ſerve the inferior burthenſome Offices, but alſo for declining thoſe which are of a more honourable Rank; thus by an *Act of Common-Council*, *Auguſt* 9, 1710, *Garrard*, Mayor, "If a "Perſon free of the City, being elected an *Alder-*"*man*, ſhall not perſonally appear at *Guild-Hall*, "and take upon him the ſaid Office and Charge, "he is to forfeit the Sum of five hundred Pounds;"

and

and by the Act of *July* 20, the 7th of *Charles* I. *Ducey*, Mayor, which I have mentioned before on other Occaſions, it is ordered, "That, if any Per-"ſon being a Freeman of the City ſhall be elected "*Sheriff*, at the Court of *Huſtings* at *Guild-Hall*, "and ſhall refuſe to give Bond, as therein re-"quired, to hold the ſaid Office, he ſhall forfeit "the Sum of four hundred Pounds; and, if the "Perſon ſo choſen be an *Alderman*, and ſhall "ſo refuſe, then every ſuch *Alderman* ſhall for-"feit the Sum of ſix hundred Marks, *&c.* And "every Perſon or Perſons, ſo refuſing, ſhall ne-"vertheleſs, after ſuch Forfeiture, remain eligible "yearly to be Sheriff." And it is further enacted by another Court of *Common-Council*, held *October* 22, 1703, Sir *Samuel Daſhwood*, Mayor, "That, if the *Lord Mayor*, in the Preſence of ſix "Aldermen, ſhall, between the 14th of *April* and "the 14th of *June*, in every Year, *nominate* a "fit and able Perſon, being a Freeman, for *She-*"*riff* of the City, the Perſon ſo nominated ſhall "not be exempted therefrom, unleſs, within *ſix* "Days after Notice, he pays the Sum of Four "Hundred Pounds into the Chamberlain's Office, "*&c.* which if he accordingly pays, then he "ſhall be diſcharged from ſerving the ſaid Of-"fice for *three* Years next enſuing; but, in Caſe "of his Refuſal to pay that Sum, he ſhall, at the "next *Common-Hall* ſummoned for the Election "of Sheriffs, be the firſt Commoner put in No-

" mination; and, if he there be *Elected*, and ſhall " refuſe again to take upon him that Office, he " then ſhall forfeit and pay the Sum of Six Hun- " dred and Twenty Pounds."

Such as ſubmit to pay theſe *Fines* are however afterwards ſo far indulged, that, notwithſtanding they might again be eligible according to the Tenour of the By-Laws above recited, yet, upon Application made by any one to the *Common-Council*, a Reſolution or Order is uſually paſſed to exempt and diſcharge him from ever after ſerving the ſaid Office, with an Exception, that if a Commoner, at ſuch Time excuſed from ſerving the Office of Sheriff, ſhould afterwards be elected an Alderman, he then ſhall again be liable to be choſen Sheriff.

Lastly, there are many Inſtances on Record, whereby it appears that ſometimes the Court of *Aldermen*, but more frequently the Court of *Common-Council*, have uſed a diſcretionary Power either of puniſhing or excuſing ſuch as have refuſed to accept the higher Office of *Lord Mayor*, upon their being elected thereto; and particularly at a Court aſſembled, for this very Purpoſe, on St. *Simon* and St. *Jude*, in the fifteenth Year of *Henry* VIH, * it was enacted and agreed, " By the Mayor, Al " dermen,

* This Court was held to puniſh *George Monoux*, Alderman, who having been acquainted that he was elected Mayor,

" dermen, and Commons, and by the Autho-
" rity of the ſame, that whenſoever hereafter it
" ſhall happen any Alderman to be elected and
" choſen Mayor of this City, and that he ſo
" elected eloyneth, abſenteth, and withdraweth
" himſelf from this City, only to the Intent
" that he will not take upon him the Charge of the
" ſame Mayoralty, that, then and as oftentimes
" as he doth ſo, he ſhall forfeit to the Mayor
" and Commonalty of this City One Thouſand
" Pounds Sterling, the ſame to be levied on his
" Goods, Chattels, Lands, Tenements, Rents,
" &c. being in his own Poſſeſſion, or elſe in any
" other Perſon, or Perſons, having Poſſeſſion to his

Mayor, on the Tranſlation of St. *Edward* the *King*, and being called upon to take upon him the ſaid Office, and not appearing, &c. it was upon the ſame Day decreed, determined, and adjudged, that he ſhould forfeit and pay the Sum of One Thouſand Pounds Sterling, to the Uſe of the City, &c. and thereupon it was further in general enacted, as above recited. Afterwards at a *Common-Council*, held on the 28th of *July*, the 16th of *Henry* VIII, he petitioned, that the Decree againſt him, on St. *Simon* and St. *Jude*'s Day might be revoked and annulled; to which, as it is there expreſſed, the Mayor and Aldermen agreed, on ſome ſpecial Conditions; and the *Common-Council* alſo comfirmed the ſame.

N. B. There are about fifteen more Precedents of the like Nature recorded in the City Journals.

" Uſe; or elſe by Action of Debt in the Name " of the Chamberlain; or in any otherwiſe, as " by the Mayor and Aldermen for the Time be- " ing ſhall be thought moſt and beſt convenient." However, not to rely on ancient Precedents, there are ſome, even of a modern Date, which ſhew that a Court of *Common-Council* has aſſumed the Power, after an Election, either to compel or excuſe the Service of that Office [t].

But whatever Penalties may have been fixed, or whatever diſcretionary Powers may be exerciſed, to puniſh thoſe who refuſe when they are properly Qualified; yet there are ſome particular Offices which the Perſon, elected or to be elected, may be under ſuch an *Inability* to execute as muſt neceſſarily diſcharge him from the Undertaking.

The firſt *Diſqualification* of this ſort is the *Inſufficiency* of Fortune, which may be pleaded, and

[t] At a *Common-Council* held on the 10th of *October* 1740, Sir *John Salter*, Mayor, it was moved, " That Mr. Al- " derman *Heathcote* (who, having been elected Mayor by a Majority of the Court of Aldermen, had deſired to be excuſed) " ſhould be compelled, by Fine or otherwiſe, " to ſerve the Office of Mayor for the Year enſuing;" which paſſed in the Negative, and the contrary Motion, " That he ſhould be excuſed," was agreed to, and a *Common-Hall* was afterwards Summoned for the Nomination of another in his Room.

is

is ſuch an Excuſe as ought to be allowed in all Inſtances, where there is a Neceſſity to ſupport any kind of Dignity in the Office; to this Purpoſe therefore the afore-mentioned *Act of Common-Council*, made in the Mayoralty of Sir *Samuel Garrard*, "exempts and diſcharges every Perſon, choſen or "to be choſen an *Alderman*, from the ſaid Elec- "tion, if he will voluntarily take his Oath be- "fore the Lord Mayor and Aldermen, that at "that Time he was not of the Value of *Fifteen* "*Thouſand Pounds*, in Lands, Goods, and ſperate "Debts;" ſo likewiſe the *Act of Common-Council* of *February* 3, 1737, Sir *John Barnard*, Mayor, which was made to alter and amend a former *Act*, "exempts and excuſes any Perſon choſen *Sheriff* "of the City from ſerving the ſaid Office, if "he will take the ſame Oath, in the open Court "of the Lord Mayor and Aldermen, that he is "not of the Value of the like Sum of *Fifteen* "*Thouſand Pounds*:" In both which Caſes it is further enacted, "That ſuch Perſons do bring with "them *ſix* other Citizens of good Credit and Re- "putation, who ſhall likewiſe teſtify upon their "Oaths, that they in their Conſciences believe the "ſaid Perſon ſo elected, or to be elected, an *Alder-* "*man* or *Sheriff*, hath depoſed and ſworn truly."

THE next *Diſability* that may be ſuggeſted towards the Diſcharging of any one from ſuch Place or Office, is, that of his not having received the

Sacrament according to the Rites of the Church of *England within the Year* before, in Default whereof by the Statute of the 13th of *Car.* II. Chap. 1. Sect. 12. "No Perſon is to be placed or choſen "into any Office of *Mayor*, *Alderman*, &c. *Com-* "*mon-Council-Man* or other *Office of Magiſtracy*, "&c. concerning the Government of any City "or Corporation;" this *Diſqualification* may and ought moſt properly to be urged by Way of *Oppoſition* to the Candidates, at or after the Election, though it does not diſable him from being elected; but the Preſiding Officer ought to certify to the Corporation the Objection made as to ſuch Diſability, where the Perſon ſo choſen may be refuſed Admittance into the Office, or, if admitted and ſworn in, may be afterwards removed by them, or by the Proſecution of any other Perſon; provided, as it is enacted by a ſubſequent Statute of the 5th of *George* I. Chap. 6. Sect. 3, "He "be ſo removed by the Corporation, or ſuch Pro- "ſecution be otherwiſe commenced," that is, by any other Perſon "within *ſix* Months after he is "placed or elected into his Office."

THEREFORE, if the ſix Months are lapſed, and no Proſecution has been commenced by the Corporation or otherwiſe, the Perſon elected is ſo far diſcharged from being ever after Proſecuted on Account of his Diſability, and may then take the

the Advantage of the occaſional Indemnifying Act of Parliament, which is uſually paſſed every Seſſions, whereby it is enacted, "That all Perſons "who have omitted to qualify themſelves for "Offices and Employments, within the Time li-"mited by Law, ſhall, if they afterwards take "and ſubſcribe the Oaths, and receive the Sa-"crament according to the Act of the 13th and "25th of *Car.* II. be indemnified from all Pe-"nalties incurred by the above-mentioned Acts "and be actually Recapacitated, in the ſame "Manner as if they had not made ſuch Omiſſion."

But there have been ſome Inſtances, where Gentlemen, being Proteſtant *Diſſenters* from the eſtabliſhed Church, have *voluntarily* ſuggeſted this their own *Incapacity*, as diſqualified to ſerve an Office they have been elected into by Reaſon of their *not having received the Sacrament*, according to the Rites of the Church of *England*, &c. Since this is a Matter of very great Conſequence, and has been the Subject of a large Controverſy, I ſhall not preſume to offer any private Opinion, but muſt refer to the legal Deciſion that may hereafter be made upon it in *Weſtminſter-Hall*, whenever ſuch a Plea ſhall come under Litigation againſt an Action brought for the Penalty of a Refuſal, in Purſuance of any preſent or future By-Law that may be made.

THOSE who are *qualified* and *willing* to ſerve, being elected, and declared to be elected, muſt be returned, admitted, and ſworn in the proper Time and Place to the due Execution of their reſpective Duties; and, that each of them may in ſome Meaſure be appriſed of the Nature of their *Duty*, from the Contents of what they are then *ſworn* unto, I have in the Appendix ſubjoined the *Oaths* which every Officer is to take upon ſuch his Admiſſion.

BUT obſerve here, that, as the *Lord Mayor* Elect, though choſen on *Michaelmas-day*, is not to enter upon his Office until the [u] *twenty-eighth* of *October* following, yet he muſt be preſented, immediately after his Election, unto the *Lord Chancellor* or ſome other of his Majeſty's *Juſtices*, authoriſed to receive ſuch *Preſentment*, according to the Directions of the fourth Charter granted by King *John*, and of the ſecond Charter of *Henry* III. both of which, in the ſame Form, "Grant and "confirm unto the Barons of the City of *London*, "that they may chuſe unto themſelves every "Year a Mayor, who may be faithful, diſcreet,

[u] As the Alteration of the *Stile* has taken Place ſince the Publication of the *firſt* Edition of this Work, the *Lord Mayor* doth not now enter into his Office until the *eighth* of *November*.

"and

"and fit for the Government of the City, ſo "as, when he is choſen, he be preſented unto the "King, or his Juſtices, if he be not preſent, and "who ſhall ſwear to be faithful unto the King."

ACCORDINGLY, on the [w] *twenty-eighth* of *October*, the new elected *Lord Mayor*, upon his being inveſted with the Regalia and Authority of his Office, takes the ancient *Oath*, before the Citizens at *Guild-Hall*, "That he will well and truly ſerve "our Sovereign Lord the King in the Office of "Mayoralty of the City, *&c.*" and on the next Day, which is commonly called the *Lord Mayor's Day*, he goes in ſolemn Proceſſion to *Weſtminſter-Hall*, where, being preſented unto his Majeſty's Juſtices of his *Exchequer*, he again takes the *ſame Oath* well and truly to ſerve the King, *&c.* And at the ſame Time the former *Lord Mayor* is ſworn to give in his Accounts, and truly to execute the Office of *Eſcheator* and of *Gauger* within the Liberties of the City of *London*.

BUT, when a new *Lord Mayor* is occaſionally choſen upon the Death of a former, and it happens not to be within any of the four Terms, in which the *Barons* of the *Exchequer* ſit at *Weſt-*

[w] VIDE Note in the preceding Page.

minſter,

minſter, it is then further granted by the Charter of *Edward* I. that, upon ſuch Emergency, "The Mayor "of the City, when choſen, and the King and "his Barons not at *Weſtminſter*, nor at *London*, may "and ſhall be preſented and admitted to and by "the Conſtable of the *Tower* of *London*[x]."

In the next Place, ſuch who are choſen *Sheriffs* at *Midſummer* are alſo to take Notice, that, although they are not to enter upon their Office, until the Eve before *Michaelmas-day* following, yet by the Act of *Common-Council* of *July* 20, Sir *Robert Ducey*, Mayor, "Each of them is "forthwith to be called upon to give his Conſent "to take upon him the ſaid Office, and is there-"upon to be ſummoned perſonally to appear "before the Lord Mayor and Aldermen at their

[x] *Daniel Lambert*, Eſq. was elected Lord Mayor on *Monday* the 23d of *March*, 1740, upon the Death of *Humphry Parſons*, Eſq. and on *Wedneſday* the 25th of the ſame Inſtant following, it being then the *Hilary* Vacation, he was ſworn before the Right Honourable Lord *Cornwallis*, Conſtable of the *Tower*, in a large Booth erected for that Purpoſe, juſt at the Entrance of the *Tower* Gate; to which Place the Lord Mayor was attended in ſolemn Proceſſion from *Guild-Hall* by the chief Magiſtrates and Officers of the City in the uſual State, with the Addition of being preceded by the Company of the *Tower* Hamlets.

"next

" next Court after the Election, unleſs ſuch Ex-
" cuſe be made as ſhall in open Court be allowed;
" and is then and there to become bound unto
" the Chamberlain, in the Sum of One Thouſand
" Pounds, that he ſhall perſonally appear at
" *Guild-Hall* at the Vigil of St. *Michael*, there to
" take upon him the Charge of the Shrievalty of
" *London* and County of *Middleſex*;" and accordingly upon ſuch Perſon's Default in not appearing before the Court of Aldermen, or refuſing ſo to become Bound, and declaring ſuch his Refuſal, he, at *that Inſtant*, incurs the Fine and Forfeiture as has been before-mentioned; and the *Liverymen* are to proceed to a new Choice, and muſt be ſummoned from Time to Time, upon the *Refuſal* or *Inſufficiency* of each Perſon elected, until ſuch are fixed upon as are *qualified* and *willing* to execute the Truſt; in Recompence for which, it is with great Equity provided and declared by the ſame Act of Common-Council, " That, in the Diſtri-
" bution of the Fines and Forfeitures of thoſe
" who ſhall in that Year refuſe to give Bond,
" One Hundred Pounds, Part of the Forfeiture
" of the firſt Perſon that has made ſuch Default
" ſhall be given to the firſt Sheriff; and One Hun-
" dred Pounds more, in Caſe there be a For-
" feiture from a ſecond Perſon, ſhall alſo be given
" to the Junior Sheriff, upon their Acceptance
" and Entrance into the ſaid Office."

THE

The Sheriffs Elect, having given Bond to ſerve, muſt be careful, according to the Condition of ſuch Bond, to attend in Perſon at the *Eve* of *Michaelmas-day*, even though that ſhould happen to be *Sunday*, at the Court of *Huſtings* at *Guild Hall*, and there take the ancient *Oath of Office* unto the Citizens of *London*, and not that *Oath* which is preſcribed by the 3d of *George* I. Chap. 15. to be taken by all other Sheriffs; for, as the Sheriffs of *London* are elected, and not conſtituted by Letters Patents, they are excuſed from taking any Oaths unto the King, excepting thoſe of Allegiance and Supremacy; after which, having executed the Indentures of the Delivery of the Priſons, and paſſed through all the other uſual Formalities, they from that Inſtant are charged with that important and hazardous Truſt; and the very next Day after, unleſs it happen to be *Sunday*, *preſide* at the *Election* of a *New Lord Mayor*, and, the Day following, are to be preſented by the Recorder, attended by the Court of Aldermen, unto the Curſitor, or any other, or all the Barons of the *Exchequer* attending at *Weſtminſter* for that Purpoſe; which again is a Conditional Formality to be performed in Purſuance of the Direction of the ſecond Charter of King *John*, by which the *Sheriffwick* of *London* and *Middleſex* is farmed unto the Citizens of *London* for Three Hundred Pounds a Year, and whereupon it is granted, "That they amongſt "themſelves may make Sheriffs whom they will, "and

" and may amove them when they will, and thoſe
" whom they make Sheriffs they ſhall preſent
" unto the King's Juſtices at the *Exchequer*;"
but nothing further is required than barely
that they ſhall be *preſented*; for it is particularly
provided, by the Charters of *Edward* I. and
Charles I. " That the Sheriffs of *London* ſhall
" not be compelled to take any *Oath* at the *Ex-*
" *chequer*, except upon Yielding up their Ac-
" counts:" The Reaſon therefore of their being
preſented ſeems to be, in order that the King,
by his Juſtices, may be informed unto whom all
his Writs are to be directed for levying the Fines,
Rents, and Farms due unto the Crown, and for
executing all other Duties that appertain to their
Office [y].

In this Manner the Lord Mayor and Sheriffs are, in the ordinary Courſe, annually propoſed, long before they enter upon their Office, that

[y] For this Reaſon every Sheriff, though elected in the Time of Vacation, is nevertheleſs preſented unto one or other of the Barons of the *Exchequer*, notwithſtanding that there is the ſame Proviſo in the Charter of *Edward* I. That the Sheriffs, as well as the Lord Mayor, if choſen, when the King's Juſtices are not at *Weſtminſter*, may be preſented to the Conſtable of the *Tower*.

they

they may have ſufficient Time to prepare and ſettle all Matters for the due Execution of ſo great a Truſt.

But, as the annual Ward Officers are charged to the Execution of their reſpective Duties immediately upon their Election, they ſhould accordingly be ſworn immediately by the preſiding Alderman or his Deputy, before the Breaking up of the *Wardmote*; for, as he holds the Court by an Authority from the Lord Mayor, he has the Power, during it's Continuance, and no longer, to tender the Oaths of Office to the Perſons there elected; but, upon it's being diſſolved, all the Proceedings muſt be returned to the Lord Mayor, who, as Chief Steward of all the Wardmote-Courts within the City, may at any Time after adminiſter the Oaths to thoſe who were omitted to be ſworn before the Alderman, or his Deputy.

It is by Virtue of this Authority that the Lord Mayor himſelf *preſides* in Perſon, or by his *Locum tenens*, at every *Wardmote* held for the Election of a new *Alderman*, in which, having gone through all the Proceedings that may be required, and made his final Declaration, he is afterwards, at the next Court of Aldermen, to return the Perſon ſo by him declared to be elected; and thereupon it is provided by the Act of Common-

Common-Council of *August* 9, 1710, *Garrard*, Mayor, "That such new chosen Magistrate shall "be summoned, on the next Court of Aldermen "following, personally to appear at the inner "Chamber of the *Guild-Hall*, and there take "upon him the Charge of Alderman of the City, "and of the Ward for which he was chosen; "which, if he then refuses to do without any "Excuse alledged of his Insufficiency with Re-"spect of Fortune, he forfeits the Sum of Five "hundred Pounds," as before-mentioned; but, if he appears, and is ready to accept the Charge, he must be sworn and admitted by that Court, which is concluded by the Return and Report of the *Lord Mayor*, and has no Power to reconsider the Proceedings of the *Wardmote* upon the Petition of any of the Electors; for although such Re-examinations may have been formerly submitted to by some Lord Mayors, at Times when the Inhabitants of the several Wards of the City had only the Liberty of nominating four or two Persons unto the Court of Aldermen, out of which they were to chuse one; yet all further Debates in that Court concerning the Merits of such Elections are now expressly provided against by the Act of Common-Council of *April* 26, 1714, *Stanier*, Mayor, which reciting, "That the Ways "of Electing and Presenting more than one Per-"son to the Court of Aldermen had been found "to be very inconvenient, and to create unneces-

sary

" ſary Difficulties in ſettling ſuch Elections, " in Caſes where Conteſts aroſe ;" therefore enacts, " That Freemen Inhabitants, according " to ancient Cuſtom, ſhall elect only one Perſon, " which Perſon ſo choſen ſhall be returned by " the Lord Mayor, or other Perſon duly autho- " riſed to preſide in his Stead, unto the Court of " Aldermen ;" and then follows a peremptory Direction, " That the Perſon ſo returned ſhall be by " them admitted and ſworn well and truly to ex- " ecute the ſaid Office."

Upon the Whole, they who are diſſatisfied with the Declaration made, at the Election of any Magiſtrate or Officer of the City whatſoever, may apply for their Remedy to the Court of *King's Bench* at *Weſtminſter*, from whence a Writ of *Mandamus* may be obtained to admit ſuch Perſon as ſhall be ſuggeſted to have been duly elected ; to which, if they to whom ſuch Writ is directed make a Return, and deny the Suggeſtion, the contending Parties may join Iſſue upon the Merits, and proceed to a freſh Trial ; and, after the Counſel, as Scrutineers on both Sides, have re-examined the Evidence upon each Objection, the Qualification of every Voter muſt be ſubmitted to the Direction of the Court, and the *Right* of *Election* will at laſt be determined by the *Verdict* of a *Jury*.

The

THE Purport therefore of what is here offered is to point out ſuch a regular Method of Proceeding, as may moſt likely guide the contending Parties to the Deciſion of their own Diſputes amongſt themſelves, without being under the diſagreeable Neceſſity of making Appeals elſwhere, which are always attended with the Addition of a larger Expence, and a longer Continuance of their Heats and Diſſenſions; and, ſince this Treatiſe was written with no other View than thus to eſtabliſh, as near as poſſible, the Peace and Union of Neighbours and Fellow Citizens, the obtaining ſo deſirable an End will recompenſe all the Trouble of the Undertaking, and anſwer the only Deſign of it's Publication.

FINIS.

APPENDIX.

Containing the material Clauſes of the Statute of 11 of *George* I. Chap. 18. relating to the Method and Right of Voting. — And the Diſabling Clauſe of the Lamp and Watch Act. — And the Form of a general Objection to be delivered upon a Scrutiny at the Election of Aldermen or Common-Council-Men. — And the Forms of the Oath which each reſpective Officer is to take upon his Admiſſion.

Number I.

Part of the 1ſt Section of the 11th of George I. Chap. 18. *which relates to the Method of Granting and Taking a* Poll.

Sect. I. BE it Enacted, that, at all Times from and after the firſt Day of *June*, in the Year of our Lord 1725, upon every Election of a Citizen or Citizens to ſerve the ſaid City of *London*

don in Parliament; and upon all Elections of Mayors, Sheriffs, Chamberlains, Bridge-Maſters, Auditors of Chamberlain's and Bridge-Maſters' Accounts, and all and every other Officer or Officers to be choſen in and for the ſaid City by the Liverymen thereof; and upon all Elections of Aldermen and Common-Council-Men choſen at the reſpective Wardmotes of the ſaid City; the preſiding Officer or Officers at ſuch Elections ſhall, in Caſe a Poll be demanded by any of the Candidates, or any two or more of the Electors, appoint a convenient Number of Clerks to take the ſame; which Clerks ſhall take the ſaid Poll in the Preſence of the preſiding Officer or Officers, and be ſworn by ſuch Officer or Officers, truly and indifferently to take the ſame, and to ſet down the Name of each Voter, and his Place of Reſidence or Abode, and for whom he ſhall Poll; and to Poll no Perſon who ſhall not be ſworn, or, being a Quaker, ſhall not affirm according to the Direction of the Act.

Numb.

Number II.

The 1ſt Part of the 4th Section, *directing at what Time a* Poll *ſhall be begun and finiſhed.*

Sect. 4. AND to the Intent that a Poll at every ſuch Election may be expeditiouſly and duly taken: Be it further Enacted, *&c.* That if a Poll ſhall be demanded at any of the Elections before-mentioned, *&c.* the preſiding Officer or Officers at ſuch Election ſhall begin ſuch Poll the Day the ſame ſhall be demanded, or the next Day following at fartheſt, unleſs the ſame ſhall happen on a *Sunday*, and then on the next Day after, and ſhall duly and orderly proceed thereon from Day to Day, *Sundays* excepted, until ſuch Poll be finiſhed; and ſhall finiſh the Poll at Elections by the Liverymen within ſeven Days, excluſive of *Sundays*; and the Poll at the Wardmote within three Days, excluſive of *Sunday*, after commencing the ſame reſpectively.

AND ſhall, upon adjourning the Poll on each Day, at all and every the Elections aforeſaid, ſeal up the Poll Books with the Seals, and in the Preſence of ſuch of the reſpective Candidates, or Perſons deputed by them, as ſhall deſire the ſame; and the ſaid Poll Books ſhall not be opened again, but at the Time and Place of Meeting in Purſuance of ſuch Adjournment; and, after the ſaid

Poll is finiſhed, the ſaid Poll Books, being ſealed up as aforeſaid, ſhall, within two Days after, be publicly opened at the Place of Election, and be duly and truly caſt up; and, within two Days after ſuch Caſting up, the Number of the Votes or Polls for each Candidate ſhall be truly, fairly, and publicly declared to the Electors, at the Place of Election, by the Officer or Officers preſiding at ſuch Elections.

Number III.

The latter Part of the 4th Section, *directing in what Manner, and within what Time, a* Scrutiny *is to be carried on and ended.*

Sect. 4. IF a SCRUTINY ſhall, upon ſuch Declaration made, be lawfully demanded, the ſame ſhall be granted and proceeded upon, and the reſpective Candidates ſhall immediately nominate to the preſiding Officer or Officers at ſuch Elections any Number of Perſons qualified to Vote at ſuch Election, not exceeding ſix, to be Scrutineers for and on Behalf of the Candidate or Candidates on each Side, to whom the preſiding Officer or Officers at ſuch Elections ſhall, within ſix Days next after ſuch Scrutiny ſhall be demanded, upon Requeſt and at the Charge of the Candidate or Candidates, or any the Scrutineers on his or their Behalfs, deliver, or cauſe to be delivered to him, or them, a true Copy, ſigned by

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Poll for Chamberlain

Feby 1776.

	1st	2d	3d	4th	5th	6th	7th	
Hopkins	168	664	624	441	265	362	363	2(
Wilkes	330	348	459	427	214	548	384	2
								1

at Midd.x 1776

Hopkins	256	833	947	370	204	128	131	28
Wilkes	201	520	403	245	144	86	74	16
Majy	55	313	544	125	60	42	57	11(

Poll For Members for the City at the Genera

Election Sept.r 1780

	1.	2.	3.	4.	5.	6.	7.	8
Hayley	228	424	547	951	731	583	585	4(
Kirkm	160	349	511	911	719	563	579	3
Bull	151	294	427	698	512	478	578	3
Newnham	137	272	437	703	577	425	479	3(
Sawb.	152	280	347	583	492	499	595	2(
Clarke	110	174	239	400	349	241	253	1

by ſuch Officer or Officers of the Poll taken at ſuch Elections.

And all and every the Scrutinies to be had or taken upon any Election to be made by the Liverymen of the ſaid City, ſhall begin within ten Days after the Delivery of the Copies of the ſaid Polls; and be proceeded on Day by Day (*Sundays* excepted) and ſhall be finiſhed within fifteen Days after the Commencement of ſuch Scrutiny; and thereupon the preſiding Officer or Officers ſhall, within four Days after the finiſhing ſuch Scrutiny, publicly declare, at the Place of ſuch Election, which of the Candidates is or are duly elected, and the Number of legal Votes for each Candidate appearing to him or them upon ſuch Scrutiny.

And on the Election of any Officer or Officers at the reſpective Wardmotes of the ſaid City, if a Scrutiny be demanded, the Candidates or Scrutineers, nominated on their Behalfs reſpectively, ſhall, within ten Days next after the Receipt of the Copy or Copies of the Polls taken at ſuch Election, deliver, or cauſe to be delivered, to the preſiding Officer or Officers, the Names in Writing of the ſeveral Perſons who have Polled in the ſaid Election, againſt whoſe Votes they ſhall object, with the particular Objections againſt each reſpective Name; and the preſiding Officer

or Officers ſhall thereupon, within three Days next following, at the Requeſt and Charges of any Candidate or Candidates, or the Scrutineers named on his or their Behalfs, deliver, or cauſe to be delivered, to him or them, one or more true Copy or Copies (ſigned as aforeſaid) of the Paper containing ſuch Names and Objections as aforeſaid; and the preſiding Officer or Officers, within ten Days then next following (excluſive of *Sundays*) after having fully heard ſuch of the ſaid Candidates as ſhall deſire the ſame, or ſome Perſon appointed by him or them, touching ſuch Objections, ſhall at or in the Place of Election openly and publicly declare, which of the ſaid Candidates is or are duly elected, and the Number of legal Votes for each Candidate appearing to him or them upon ſuch Scrutiny.

And if the preſiding Officer or Officers, or any other Perſon or Perſons, ſhall offend in the Premiſſes, every ſuch Offender ſhall forfeit, for every ſuch Offence, the Sum of two hundred Pounds of lawful Money of *Great Britain*, with full Coſts of Suit, over and above all Penalties and Forfeitures inflicted by any other Act or Acts of Parliament.

Number

Number IV.

The firſt Part of the 14*th* Section, *declaring what* Liverymen *are to be excluded from Voteing at a* Common-Hall.

Sect. 14. AND it is hereby further Enacted, That no Perſon or Perſons whatſoever ſhall, from and after, &c. have any Right or Title to Vote at any Election of a Citizen or Citizens to ſerve in Parliament for the ſaid City, or of any Mayor or other Officer or Officers to be choſen by the Liverymen thereof, who have not been upon the Livery by the Space of twelve Kalendar Months before ſuch Election; and who ſhall not have paid their reſpective Livery Fines, or who, having paid the ſame, ſhall have received ſuch Fines back again, in Part or all; or ſhall have had any Allowance in reſpect thereof.

Number V.

The 7*th* Section, *which Enacts the* Qualifications *neceſſary to intitle one to Vote for* Aldermen *or* Common-Council-Men.

Sect. 7. AND whereas divers Controverſies and Diſputes have ariſen in the ſaid City of *London*, touching the Right of Election of Aldermen and Common-Council-Men for the re-

ſpective Wards of the ſaid City; for quieting all ſuch Diſputes and Controverſies for the future, it is hereby further Enacted by the Authority aforeſaid, That from and after the firſt Day of *June*, in the Year of our Lord 1725, the Right of Election of Aldermen and Common-Council-Men for the ſeveral and reſpective Wards of the ſaid City ſhall belong and appertain to Freemen of the ſaid City of *London*, being Houſholders, paying Scot, as herein after is mentioned and provided, and bearing Lot, when required, in their ſeveral and reſpective Wards, and to none other whatſoever.

Number VI.

The 8th and Part of the 10th Proviſo, deſcribing in what Manner Houſholders *are to be intitled to Vote*, &c.

Sect. 8. PROVIDED nevertheleſs, that the Houſes of ſuch Houſholders be reſpectively of the true and real Value of Ten Pounds a Year at leaſt; and that ſuch Houſholders be reſpectively the ſole Occupiers of ſuch Houſes; and have actually been in Poſſeſſion reſpectively of a Houſe of ſuch Value, in the Ward wherein the Election is made, by the Space of twelve Kalendar Months next before ſuch Election. And

Sect.

Sect. 10. PROVIDED always, That ſuch Houſholder, within the Space aforeſaid, ſhall have been rated or charged, and contributed or paid his Scot to all and ſingular the Rates and Taxes (other than and except annual Aids granted by Parliament) whereunto the Citizens of *London*, inhabiting therein, are, or ſhall be liable; or ſhall have paid in the Whole to the ſaid Rates and Taxes, or ſome of them, except as aforeſaid, Thirty Shillings a Year at leaſt.

Number VII.

The 9th Proviſo, which aſcertains what are the Rules *and* Taxes *to which ſuch Houſholders ought to pay their Scot.*

Sect. 9. PROVIDED alſo, and for the better aſcertaining what are the Rates and Taxes, to which ſuch Houſholders ought to contribute and pay their Scot, the ſame are hereby Declared and Enacted to be a Rate to the Church; to the Poor; to the Scavenger; to the Orphans; and to the Rates in Lieu of, or for the Watch and Ward; and to ſuch other annual Rates, as the Citizens of *London*, inhabiting therein, ſhall hereafter be liable unto, other than and except annual Aids granted, or to be granted, by Parliament; and in Caſe any ſuch Houſholder, within the Space aforeſaid, ſhall have

been rated and charged, and contributed and paid his Scot to all the ſaid Rates or Taxes, or Thirty Shillings a Year to all, or ſome of them, except as aforeſaid, every ſuch Perſon ſhall be deemed and taken to be a Perſon paying of Scot.

Number VIII.

The latter Part of the 10*th* Section, *relating to* Partners.

Sect. 10. AND in Caſe any two or more Partners carry on a joint Trade in any ſuch Houſe together, and ſhall have been Houſholders of ſuch Houſe by ſuch Space of Time as aforeſaid; ſuch Partners ſhall, paying their Scot in Manner aforeſaid, and bearing their reſpective proper Lots, if required, have Votes at the Elections aforeſaid; ſo as ſuch Houſe, wherein ſuch Partners carry on their Trade, be of the true and real yearly Value of as many reſpective Sums of Ten Pounds a Year, computed together, as there are Partners.

Number

Number IX.

The 11*th* Section, *relating to ſeveral* Inhabitants.

PROVIDED alſo, that where two Perſons and no more, not being Partners, ſhall have, by the Space aforeſaid, ſeverally inhabited in the ſame Houſe, ſuch two Perſons, ſeverally paying their Scots, and bearing their reſpective Lots, as aforeſaid, ſhall have Votes at the Election aforeſaid; ſo as ſuch Houſe, wherein ſuch two Perſons inhabit, be of the true and real yearly Value of Twenty Pounds or upwards; and that each of the ſaid Perſons doth pay the yearly Rent of Ten Pounds at the leaſt, for his reſpective Part of ſuch Houſe.

Number X.

The latter Part of the 14*th* Section, *declaring the general Diſqualifications of Voting at* all *Elections whatſoever, within the City of* London.

AND no Perſon or Perſons whatſoever ſhall have any Right to Vote at any Election of a Citizen or Citizens to ſerve in Parliament; or of any Mayor, Alderman, or other Officer or Officers,

cers, of or for the ſaid City, or any the Wards or Precincts thereof, who have, at any Time within the Space of two Years next before ſuch Election or Elections, requeſted to be, and accordingly have been, diſcharged from paying to the Rates and Taxes to which the Citizens of *London*, inhabiting therein, are, or ſhall be liable, as aforeſaid, or any of them; or have, within the Space aforeſaid, had or received any Alms whatſoever; and the Vote of every ſuch Perſon ſhall be void.

Number XI.

The diſabling Clauſe inſerted in the Statutes of the 9th of George II. Chap. 20. Section 13. *and the 10th of* George II. Chap. 22. Section 10. *with Regard to the Neglect or Refuſal to pay the* Lamp *or* Watch Rates.

AND, to the End that the Payment of the ſaid Rates and Aſſeſſments for the Purpoſes aforeſaid may be effectually inforced, be it further Enacted, *&c.* That every Freeman of *London*, liable to pay the Rates and Aſſeſſments as aforeſaid, who ſhall have neglected or refuſed to pay the ſaid Rates and Aſſeſſments to the Perſon or Perſons authoriſed and impowered to collect and receive the ſame, *(the ſame having been lawfully*

fully demanded [a]) or ſhall have deſired to be excuſed from paying ſuch Rates and Aſſeſſments, ſhall be under the ſame Incapacity of Voting at Elections within the ſaid City of *London*, as any Perſon or Perſons now is or are, who do not pay their Scot and Lot to the ſeveral yearly Rates and Taxes to which the Citizens of *London* are at this Time liable.

[a] THESE Words (the ſame having been lawfully demanded) are not inſerted in the Clauſe of the *Lamp Act*.

Number XII.

The Form of a general Objection to be delivered upon a Scrutiny at the Election of an Alderman *or* Common-Council-Man; *to be introduced as followeth.*

WE whoſe Names are here under-written, being nominated to be Scrutineers for and on Behalf of *J. S.* Candidate for the Office of within the Ward of at a Wardmote held on the Day of and continued by Adjournment for the Purpoſe of taking and finiſhing the Election of ſuch Officer, do object againſt the ſeveral Perſons who have polled at the ſaid Election for *J. N.* another Candidate for the ſaid Office, for the particular Reaſons written againſt each of their reſpective Names, *viz.* We object againſt

A. B. — For that he is not a Freeman of *London*; nor a Houſholder; nor the ſole Occupier of a Houſe; nor hath been actually in the Poſſeſſion of a Houſe within the ſaid Ward, of the true and real Value of Ten Pounds a Year by the Space of twelve Kalendar Months next before the ſaid Election; and for that he hath not been rated and charged, and contributed and paid, within the Space aforeſaid, his Scot to the Rate to the Church; to the Poor; to the Scavenger; to the Orphans; and to the Rate in Lieu of and for the Watch and Ward; and to the Rate for Enlightening the Streets of the City of *London*; and to the Rate for the better Regulating the Nightly Watch and Beadles within the City of *London* and Liberty thereof; and to ſuch annual Rates as the Citizens of *London*, inhabiting therein, are liable unto, or Thirty Shillings a Year to all or ſome of them; and for that he hath refuſed to bear his Lot when required in the ſaid Ward; and for that he hath, within the Space of two Years next before the ſaid Election, requeſted to be, and accordingly has been diſcharged from paying to the Rates and Taxes to which the Citizens of *London*, inhabiting therein, are liable, or to ſome, or one of them; and for that he hath within the Time aforeſaid had and received Alms [b].

Number

[b] In this Objection are included all *Partners* and ſeveral *Inhabitants*, as well as *ſole* Occupiers of a Houſe; for

Number XIII.

The Oath of the Lord Mayor.

YOU ſhall ſwear that ye ſhall ſerve well and truly our Sovereign Lord King *George* the Third, in the Office of Mayoralty of the City of *London*; and the ſame City ye ſhall keep ſurely and ſafely unto the Uſe of our ſaid Sovereign Lord the King and his Heirs, Kings of *Great Britain*; and the Profit of the King ye ſhall do in all Things that to you belongeth, and the Right of the King, and that which belongeth unto the Crown, you ſhall truly keep; you ſhall not aſſent unto any Decreaſe nor Concealment of the Rights nor of the Franchiſes of the King, and, there where ye may know the Rights of the King, or of the Crown, be it in Lands, Rents or in Franchiſes, or in Suits concealed or withdrawn, you ſhall put your Power to call it again, and, if you may not do it, you ſhall tell it unto the

for Partners and ſeveral Inhabitants, being equally obliged to be in Poſſeſſion of a Houſe, or Part of a Houſe, and chargeable thereto, ſhould they be deficient in theſe Points, they muſt come under the general Implication of not being *Houſholders* within the Ward paying *Scot* and bearing *Lot*, *&c.* Conſequently, every one of them may be ſeparately objected againſt.—For that he is not a Houſholder, *&c.*

King,

King, or to thoſe of his Council of whom ye ſhall underſtand for to be certain that they ſhall inform the King thereof, and you ſhall truly and right wiſely treat the People of your Balliwick, and Right you ſhall do to every Perſon, as well to Strange as to Privy, to Poor as to Rich, in that belongeth to you to do, and that for Highneſs nor for Riches, for Gift, Promiſe, Favour, nor Place, ye ſhall no Wrong do to any Perſon, nor to no Man ye ſhall the Right let; ye ſhall not take by which the King ſhall loſe, or by which the Right may be letted, and alſo that you ſhall ſet good Keeping upon the Aſſize of Bread, Wine, Ale, Fiſh, Fleſh, Corn, and of all other Victuals, and alſo of Weights and Meaſures, in the ſaid City, doing ſadd and due Execution upon the Defaults that there ſhall be found, according to all the Statutes thereof made not repealed, and that in all Things to the Mayor of the ſaid City belonging for to be done well and truly ye ſhall have you and do.

So help you God.

Number

Number XIV.

The Oath of an Alderman.

YE ſhall ſwear, that ye ſhall well and lawfully ſerve our Sovereign Lord the King in the City of *London* in the Office of Alderman in the Ward of *N*—— wherein ye ſhall be choſen Alderman, and every other Ward whereof ye ſhall be choſen Alderman hereafter; and lawfully ye ſhall entreat the People of the ſame Ward of ſuch Things as to them appertaineth to do for the Keeping of the City, and for Maintaining of the Peace in the ſame; and the Lands and Franchiſes of the City ye ſhall keep and maintain, within the City and without, after your Wit and Power; and attendant ye ſhall be to maintain the Right of Orphans after the Laws and Uſage of the ſame City; and ready ye ſhall be to come at the Summons and Warning of the Mayor and Miniſters of this City for the Time being, to ſpeed the Aſſizes, Pleas, and Judgments of the *Huſtings*, and other Needs of this City, if you be not let by the Needs of the King, or by ſome other reaſonable Cauſe; and good and lawful Counſel ye ſhall give for ſuch Things as touch the common Profit of the City; and ye ſhall ſell no Manner of Victual by Retail, as Bread, Ale, Wine, Fleſh, nor Fiſh, by your Apprentices, Allowes, Servants, ne by any other Way,

Way, ne Profit ſhall ye none take of any ſuch Manner of Victual ſo ſold during your Office. The Secrets of this Court ye ſhall keep, and not diſcloſe any Thing here ſpoken for the Common-Wealth of this City, or that might hurt any Perſon or Brother of this ſaid Court, unleſs it be ſpoken to your Brother or any other, which in your Conſcience and Diſcretion ye ſhall think to be for the Common-Wealth of this City; and well and lawfully ye ſhall behave you in the ſaid Office, and in all other Things touching the ſaid City

As God you help.

Number XV.

The Oath of the Sheriff.

YE ſhall ſwear, That ye ſhall be good and true unto our Sovereign Lord the King of *England*, and unto his Heirs and Succeſſors, and the Franchiſe of the City of *London*, within and without, ye ſhall ſave and maintain to your Power; and ye ſhall well and lawfully keep the Shires of *London* and *Middleſex*, and the Offices that to the ſame Shires appertain to be done well and lawfully, ye ſhall do after your Wit and Power; and Right ye ſhall do as well to Poor as Rich, and good Cuſtom you ſhall none break, ne evil Cuſtom arrere, and the Aſſize of Bread, Ale,

Ale, and all other Victuals within the Franchiſe of this City, and without, well and lawfully ye ſhall keep, and do to be kept, and the Judgments and Executions of your Court ye ſhall not tarry without Cauſe reaſonable; ne Right ſhall you none diſturb. The Writs that to you come touching the State and Franchiſe of this City you ſhall not return till you have ſhewed them to the Mayor and the Council of this City for the Time being, and of them have Adviſement; and ready you ſhall be, at reaſonable Warning of the Mayor, for keeping of the Peace, and maintaining the State of this City; and all other Things that longen to your Office, and the Keeping of the ſaid Shires, lawfully you ſhall do, by you and yours, and the City you ſhall keep from Harm after your Power, and the Shire of *Middleſex*; ne the Gaol of *Newgate* you ſhall not let to farm.

As God you help.

ADDITION.

Ye ſhall alſo ſwear, That ye ſhall freely give all ſuch Rooms and Offices of Serjeants and Yeomen as ſhall happen to become void, during the Time ye ſhall remain in the Office of Shrievalty, to ſuch apt and able Perſon or Perſons as ſhall be by you nominated to the Lord Mayor and Court of Aldermen, and by them admitted, without any Money, or other Reward, to be had, taken, or hoped

hoped for in Reſpect thereof, according to the Act of Common-Council made and provided in that Behalf, the nine and twentieth Day of *April*, in the ſix and twentieth Year of the Reign of our Sovereign Lady Queen *Elizabeth*, &c.

As God you help.

Number XVI.

The Oath of the Common-Council-Men.

YE ſhall ſwear, That ye ſhall be true to our Sovereign Lord the King that now is; and readily come when ye be ſummoned to the Common-Council of this City, unleſs ye be reaſonably excuſed; and good and true Counſel ye ſhall give in all Things touching the common Weal of this City, after your Wit and Cunning; and that, for Favour of any Man, ye ſhall maintain no ſingular Profit againſt the common Profit of this City; and, after that ye be come to the Common-Council, ye ſhall not from thence depart till the Common-Council be ended without reaſonable Cauſe, or elſe by the Mayor's Licence: And alſo, That all ſecret Things that be ſpoken or ſaid in the Common-Council, the which ought to be kept ſecret, ye ſhall in no wiſe diſcloſe.

As God you help.

Number

Number XVII.

The Oath of the Lamp-Collectors.

YOU ſwear, That you will faithfully and diligently aſk for, collect, and receive the ſeveral Rates and Aſſeſſments, payable by each Inhabitant of ſuch Precinct wherein you are, or ſhall be, appointed Collector within this Ward, for defraying the Expence of enlightening the ſame purſuant to the Statute of the 9th of *George* II. intitled, An Act for the better enlightening the Streets of *London*; and that you will render and bring in your Accounts to the Alderman of the ſaid Ward of all the ſeveral Sums of Money by you received, and give in a Liſt of ſuch Perſons as ſhall have neglected or refuſe to pay the ſaid Rates and Aſſeſſments, according to the Directions of the ſaid Statute.

So help you God.

Number XVIII.

The Oath of the Conſtables.

YE ſhall ſwear, That ye will keep the Peace of our Sovereign Lord King *George* well and lawfully after your Power, and ye ſhall arreſt all them that make Conteſt, Riot, Debate, or Affray, in

in breaking of the ſaid Peace, and lead them to the Houſe or Compter of one of the Sheriffs. If ye be withſtood by the Strength of Miſdoers, ye ſhall rear on them an Outcry, and purſue them from Street to Street, and from Ward to Ward, till they be arreſted, and ye ſhall ſearch at all Times, when ye be required by the Scavengers or Beadles, the Common Nuſance of your Ward, and the Beadle and Raker ye ſhall help to rear and gather in their Salary and Quarterage, if ye be thereunto by them required. And, if any Thing be done within your Ward againſt the Ordinance of this City, ſuch Defaults, as ye ſhall find there done, ye ſhall them preſent to the Mayor and Miniſters of this City. And, if ye be letted by any Perſon or Perſons that you may not duly do your Office, ye ſhall certify the Mayor and Council of the City of the Name or Names of him or them that let you. Ye ſhall alſo ſwear, that during the Time ye ſhall ſtand in the Office, and occupy the Room of a Conſtable, ye ſhall once at leaſt every Month certify, and ſhew to one of the Clerks of the Mayor's Court, and in the ſame Court, as well the Names and Sir-names of all Freemen, which ye ſhall know to be deceaſed within the Month in the Pariſh wherein ye be inhabited, as alſo the Names and Sir-names of all the Children of the ſaid Freemen ſo deceaſed, being Orphans of this City. And you ſhall inquire of all and every of the

Offences